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**Letter dated 28 January 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council**

I write with reference to my letter of 6 August 2002 (S/2002/909).

The Counter-Terrorism Committee has received the attached supplementary report from the Socialist Republic of Viet Nam, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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## Annex

### Note verbale dated 14 January 2003 from the Permanent Mission of Viet Nam to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of the Socialist Republic of Viet Nam to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and, with reference to his letter of 15 July 2002 containing the preliminary comments of the Counter-Terrorism Committee on the report submitted by Viet Nam pursuant to paragraph 6 of Security Council resolution 1373 (2001), has the honour to provide the additional information requested (see enclosure).

**Enclosure**

**Socialist Republic of Viet Nam**

**Supplementary Report to the Counter-Terrorism Committee of the Security Council pursuant to paragraph 6 of resolution 1373 (2001)**

## A. INTRODUCTION

International terrorism is causing severe loss in persons and properties. It is Viet Nam's consistent position to condemn any acts of terrorism, in any form and by any motive, and to hold that any measures against international terrorism must be based on the principle of respect for state sovereignty, territorial integrity and the Charter of the United Nations.

Viet Nam is strongly opposed any attempt or act aimed at interfering into the internal affairs of sovereign states and causing sufferings to innocent people, under the pretext of combating terrorism.

Viet Nam is of the view that terrorism can only be eliminated by thoroughly dealing with its root causes, among which are poverty and development gaps. A solid ground for national, regional and global development can only be built through cooperation in poverty elimination and narrowing the development gaps.

In this spirit, Viet Nam has seriously implemented Resolution 1373 (2001), adopted by the United Nations Security Council on 28 September 2001. On 5 February 2002, pursuant to the Resolution's paragraph 6, Viet Nam submitted the Initial Report on its implementation of the Resolution. In response to the request of the Counter Terrorism Committee of the United Nations Security Council, as contained in Note No. S/AC.40/2002/MS/OC.127 dated 15 July 2002 and following the Initial Report dated 6 February 2002, this Supplementary Report has been compiled with the participation of Viet Nam's Ministry of Defense, Ministry of Public Security, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Finance, the State Bank, the People's Supreme Court and the People's Supreme Procurator.

## B. ANSWERS TO QUESTIONS OF THE COUNTER-TERRORISM COMMITTEE

### I. Sub-paragraphs 1 (a) and (b) of Resolution 1373 (2001)

1. (a) With regard to legal provisions relating to the suppression of terrorism, Article 84 of the 1999 Penal Code of the Socialist Republic of Vietnam provides as follows:

*"Article 84. Terrorism*

*1. Those who intend to oppose the people's administration and infringe upon the life of officials, public employees or citizens shall be sentenced to between 12 and 20 years of imprisonment, life-imprisonment or capital punishment.*

*2. In the case of committing offences by infringing upon physical freedom and/or health, the offenders shall be sentenced to between 5 and 15 years of imprisonment.*

*3. In the case of committing offences by threatening to infringe upon the life or committing other acts of mental intimidation, the offenders shall be sentenced to between 2 and 7 years of imprisonment.*

*4. Those who terrorize foreigners in order to cause difficulties to the Socialist Republic of Viet Nam in its international relations shall be punished in accordance with the provisions of this Article."*

Other offences with connection to the offence of terrorism are also dealt with by the 1999 Penal Code in the following articles:

- Article 82: Violent Rebellion;
- Article 83: Banditry;
- Article 85: Sabotaging the material-technical foundations of the Socialist Republic of Viet Nam;
- Article 134: Kidnapping for Appropriation of Properties;
- Article 221: Hijacking Aircrafts or Ships.

(b) Regarding the provisions of the Anti-Drug Law and other laws relating to the disposal of funds and assets generated by illegal acts:

Paragraph 1 (d) of Article 13 of the 2000 Anti-Drug Law of the Socialist Republic of Vietnam provides that the specialized agencies for fighting drug-related crimes of the Ministry of Public Security are entitled to request concerned individuals, households, offices and organizations to provide information, documents, financial data and bank accounts when there is evidence to conclude that funds or assets generated from drug-related criminal activities are laundered. This provision is aimed at facilitating the investigation and discovery of crimes.

2. According to its Article 5, the 1999 Penal Code applies to all criminal acts committed in the territory of Viet Nam. Therefore, activities undertaken in Viet Nam which are not crime of terrorism, but are connected with terrorist acts committed in other countries and constitute an offence under the Code may be case by case prosecuted under Viet Nam's Penal Code (in accordance with the principle contained in Article 2 of the Code that only those persons who have committed an offence defined by the Penal Code shall bear penal liabilities). Activities in preparation for the commission of the above-mentioned criminal acts may also be prosecuted under article 17 of the 1999 Penal Code.

3. With regard to provisions of banking laws, which deal particularly with ensuring the legality of financial transactions:

a. The 1997 Law on the State Bank, the 1997 Law on Credit Organizations of the Socialist Republic of Vietnam and related instructing instruments, such as Governmental Decree No. 63/1998/ND-CP dated August 17, 1998 on Foreign Exchange Management, Governmental Decree No. 20/2000/ND-CP dated 15 June 2000 on Fine Applied to Administrative Violations in the Monetary and Banking Operations, Governmental Decree No. 64/2001/ND-CP dated 20 September 2001 on Payments through Payment Service Organizations, specifically define all transactions relating to foreign exchange, such as:

- Opening and using a foreign currency account in Viet Nam and in a foreign country, consuming foreign currencies in the territory of Viet Nam (such as buying and selling through foreign currency accounts, transactions entitled to be paid for in foreign currencies, transactions entitled to accept payments in foreign cash, the use of foreign cash...).

- Transactions of transferring foreign currencies into Viet Nam (including provisions on frequent transactions such as goods export and services payments, money transferring by the overseas Vietnamese, tourism, investment profit repatriation, one-way money transferring..., and capital transactions such as withdrawal of borrowing funds, implementation of foreign direct investment and stock investment transferring...).

- Transactions of transferring foreign currencies out of Viet Nam (including provisions on frequent transactions such as goods import and services payments, investment profit payments, borrowing profit payments, transferring foreign currencies out of Viet Nam for the purposes of official duties, studies, visits, medical treatments, fee payments, subsidies, and capital transactions such as payments for foreign debts, investment abroad, transferring of inheritance money, settling down abroad...).

All the above-mentioned provisions set out the detailed conditions, procedures, and required documents to be submitted to the banks for the convenience of monitoring and controlling in order to ensure the legality of financial transactions and the legitimate purposes of the foreign currency flows into and out of Viet Nam.

b. In addition, the 1997 Law on the State Bank and the 1997 Law on Credit Organizations include provisions on the banks' internal monitoring and inspections and on general inspections of the compliance of banking laws and regulations. Article 126 of the 1997 Law on Credit Organizations and Article 59 of the Law on the State Bank provide that organizations or individuals, who commit illegal acts in financial and banking transactions, will be dealt with accordingly to the degrees of their violations; if their violations cause damage, they must compensate as provided by the law.

c. Article 26 of the Rules for Payments through Payment Service Organizations, enacted together with the Vietnamese State Bank's Decision No. 266/2002/QD-NHNN dated March 26, 2002, provides that the payment service organizations are of the duty *"to refuse servicing transactions proved to come from illegal origins"* and *"are not allowed to hide from the competent state authorities information about the users of payment services, the amount of payments and other related information in case of transactions from illegal origins."*

4. Regarding the law provisions and existing procedures for monitoring suspicious financial transactions:

a. Article 19 of the 1997 Law on Credit Organizations provides as follows:

*"Article 19. Liabilities for funds from illegal origins*

*1. The credit and other organizations involved in banking activities are not allowed to cover, or to provide any service, in cases relating to funds proved to come from illegal origins.*

*2. In case a suspicious fund is discovered, the credit and other organizations involved in banking activities must inform the competent state authorities immediately."*

b. Article 36 of the Governmental Decree No. 63/1998/ND-CP dated 17 August 1998 on Foreign Exchange Management provides that:

*"Article 36. Supply of information by organizations and individuals*

*Residents in Viet Nam or abroad and non-residents in Viet Nam, who are engaged in foreign exchange transactions, shall have to supply information and/or data upon the request of the State Bank in accordance with the provisions of law."*

c. Paragraph 2 of article 3 of the Governmental Decree No. 70/2000/ND-CP dated November 21, 2000 on Non-Disclosure of Clients' Accounts provides that the deposit agencies are of the duty to report immediately to the Vietnamese State Bank if it is found that the deposited funds or assets are generated from illegal sources.

d. In order to effectively monitor the suspicious financial transactions, according to Article 5 of the above-mentioned Decree, the deposit agencies shall provide information, upon written requests by the state authorities in the process of inspection, investigation, prosecution, trial, enforcement of courts' decisions and following the provisions of law. The written requests for information relating to deposited funds and assets shall be signed by the following authorities:

- Director, Deputy Directors of the People's Supreme Procurator; Chairperson, Vice-Chairpersons of the People's Supreme Court; Judges of the People's Courts under legal documents adopted by the National Assembly and its Standing Committee;

- Director, Deputy Directors of the Military Procurator, Chairperson, Vice-Chairpersons of the Military Courts, Judges of the Military Courts from the military zone level upward;

- Director, Deputy Directors of the professional departments of the Ministry of Public Security; Director, Deputy Directors of Public Security agencies in the provinces and cities directly subordinate to the central government; Head and Deputy Heads of the investigation agencies at the ministerial, provincial and city levels; Head and Deputy Heads of the military investigation agencies from the military- zone level upward;

- Law enforcement officers or head of law enforcement agencies in charge of executing the courts' decisions;

- Chief State Inspector, Deputy Chief State Inspectors, Head and Deputy Heads of state inspecting organizations and specialized inspecting agencies, head of an inspecting team established in pursuance to provisions of inspection laws in order to address petitions and corruption cases of provincial level upward.

e. Regarding sanction against evasion of the reporting duty, article 34 of Governmental Decree No. 20/2002/ND-CP dated 15 June 2002 on Sanctioning Administrative Violations in the Monetary Field and Banking Operations provides as follows:

*"Article 34. Violations of regulations on management of banking operation information and reports*

*1. Warning for acts of submitting reports not according to the time schedules set by the competent authorities.*

*2. A fine of between over VND 200,000.00 and VND 2,000,000.00 for failing to submit reports or submitting reports not according to forms prescribed by the competent authorities.*

*3. A fine of between over VND 2,000,000.00 and VND 5,000,000.00 for one of the following acts:*

*a) Untruly reporting on the activities of credit organization;*

*b) Providing individuals and/or entities with information relating to the activities of the State Bank and/or credit organizations without permission of the competent authorities as prescribed by law, or without the consent of the customers, except for cases mentioned in articles 102, 103 and Clause 2 of article 104 of the Law on Credit Organizations".*

**II. Sub-paragraphs 1 (c ) and (d) of Resolution 1373 (2001)**

1. Legal measures to prohibit nationals of Viet Nam or any person or entity in Viet Nam from making funds and other resources available to persons or entities linked to terrorist acts:

a. Article 7 of Governmental Decree No. 87/CP dated 19 December 1996 specifically stipulates that the management levels, establishment, realization and clearance of State budget as follows:

*"Article 7*

*1. All revenues and expenditures of the state budget must be fully accounted for in the state budget. Every organization and/or individual, who has the duty to collect, turn in and employ the state budget, must undertake accounting, reporting and clearing activities in strict compliance with the state accounting regime; make correct and complete balances of revenues and expenditures; use receipts and bills of collecting or spending issued by the Ministry of Finance.*

*2. Strictly forbid the administrations, entities and individuals to withhold parts of the state budget's revenues or use resources from the state budget, to set up funds outside state budget, in opposition with the Government's regulations".*

b. Concerning credit organizations, Article 27 of Governmental Decree No. 20/2002/ND-CP dated 15 June 2000 on Sanctioning Administrative Violations in the Monetary Field and Banking Operations provides that:

*"Article 27. Violations regarding treasury*

*A fine of between VND 5,000,000.00 and VND 15,000,000.00 for one of the following acts:*

*1. Making deductions for setting up funds in contravention of the law;*

...

*3. Transferring the charter capital-supplementing reserve funds and other funds abroad in contravention of the law."*

2. Measures to ensure that funds and other economic resources collected for religious, charity or cultural purposes are not used for other purposes, particularly for financing of terrorism:

a. Governmental Decree No. 177/1999/ND-CP dated 22 December 1999 on the Rules of the Organization and Operation of Social and Charity Funds prohibits individuals and/or entities to use these funds in illegal activities to generate illegal profits (Article 4).

b. The above-mentioned Decree also provides clearly that social and charity funds are only established for humanitarian and charity purposes and aimed at promoting cultural, sport, scientific and social developments (Article 2). Such funds must observe transparency in their collection and usage of contributions, provide necessary information to the competent state authorities as requested, and subject themselves to inspection and control by the state authorities as provided by the law (Article 8). These organizations also have to submit timely and completely periodical financial reports and annual clearance reports to the competent financial authorities (Article 15).

3. Regarding existing laws and procedures available to regulate alternative remittance systems, article 4 of the Prime Minister's Decision No. 170/1999/QD-TTg dated 19 August 1999 on Encouraging Overseas Vietnamese to Remit Money to Viet Nam provides that:

> "*Article 4. Forms of foreign currency transfers from other countries to Viet Nam*
>
> *Vietnamese overseas and foreigners are allowed to transfer foreign currencies into Viet Nam in the following forms:*
>
> *1. Through registered credit organizations;*

*2. Through enterprises providing international post financial services;*

*3. Accompanying individuals going to Viet Nam. Individuals, who enter Viet Nam and carry foreign currencies for Vietnamese overseas, must declare to the Customs Office at the entry port about the amount of foreign currencies brought to Viet Nam for a beneficiary in Viet Nam."*

**III. Sub-paragraph 2 (a) of Resolution 1373 (2001)**

1. Activities occurring in Viet Nam that are not specifically of a terrorist nature but are linked to actual or potential acts of terrorism in another country may be prosecuted under penal law if they constitute an independent offence stipulated in the Penal Code in accordance with its Articles 2, Article 5 and Article 84.

2. Measures to prevent individuals and entities from recruiting personnel, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Viet Nam:

Although the Penal Code does not have a specific provision on financing of terrorism, an act of providing funds and facilities for the commission of the crime of terrorism may be prosecuted under Article 84 (terrorism). Under Article 17 (preparation for committing offences), acts of "seeking to acquire, or preparing tools, means or other conditions" for the commission of an offence of terrorism may be prosecuted. In addition, pending the preparation for the commission of an act of terrorism, if the offender commits other independent offences, he may be prosecuted for such offences.

3. Vietnamese legislation that deals with the control of the possession, transfers or export of weapons and explosives:

Besides the specific provisions of the 1999 Penal Code on offences relating to the management and control of weapons, explosives, toxic, radiation (as mentioned in the 5 February 2002 Report), Viet Nam has also enacted other legal instruments regulating the distribution, registration, maintenance, repair, transport, employment, examination, revocation and destruction of weapons, explosives, toxins and radiation in order to closely monitor their stocks and usage, such as:

- Governmental Decree No. 47/CP dated 12 August 1996 on the management of weapons, explosives and supportive tools;

- Circular No. 05/TT-BNV(C13) dated 28 September 1996 of the Ministry of Internal Affairs (presently Ministry of Public Security) instructing on the implementation of Governmental Decree No. 47/CP;

- Circular No. 1691/TT-QP dated 8 July 1997 of the Ministry of Defense instructing the implementation of Governmental Decree No. 47/CP;

- Decision No. 404/QD-BNV(C13) dated 15 July 1995 of the Minister of Internal Affairs (presently Minister of Public Security) on the subjects and criteria for the provision of regular weapons and supportive tools;

- Decision No. 82/HDBT dated 10 July 1989 of the Chairperson of the Council of Ministers (presently the Prime Minister) on the provision of weapons and military equipment;

- Decision No. 113/TTg dated 25 March 1993 of the Prime Minister on the provision of weapons and military tools for market-control forces;

- Inter-agency Circular No. 09/1998/TTLT-TDTT-BCA of the Physical Training and Sport Committee and the Ministry of Public Security instructing the management, provision, employment,

maintenance, transport, repair, import and export, liquidation and destruction of sport weapons;

- Governmental Decree No. 27/CP dated 20 April 1995 on the management, production, supply and employment of industrial explosives;

- Circular No. 11/TT-CNCN dated 13 March 1996 of the Ministry of Industry on the implementation of Governmental Decree No. 27/CP;

- Inter-Agency Circular No. 01/1998/TTLT-CN-NV dated 13 January 1998 of the Ministry of Industry and Ministry of Internal Affairs (presently Ministry of Public Security) on the management, trade and supply of industrial explosives;

- Circular No. 07/2000/TT-BCN dated 19 December 2000 of the Ministry of Industry on the procedures for granting permits to industrial explosive trading.

Apart from the above-mentioned legal instruments, Article 9 of the Ordinance on the Border Guard Forces provides that the border guard forces are tasked with carrying out, in coordination with other people's armed forces and state agencies concerned, the fight against smuggling and illegal trafficking of weapons, burning material, explosives, toxic, drugs, harmful cultural products and goods prohibited for export and import across the land borders, or via the islands and maritime areas by the law.

Besides, Article 21 of Governmental Decree No. 34/2000/ND-CP dated 18 August 2000 on the Regulations for Activities in the Border Areas of the Socialist Republic of Viet Nam strictly prohibits the smuggling, illegal trafficking of weapons, burning materials, explosives, toxic, drugs, harmful cultural products and goods prohibited for import and export across the borders.

## IV. Sub-paragraph 2 (b) of Resolution 1373 (2001):

1. Regarding bodies in charge of counter-terrorism, among others, the Ministry of Public Security is the competent coordinator in counter-terrorism. Within the Ministry of Public Security, there are specialized agencies in charge of combating terrorism. The Ministry of Public Security also works in collaboration with other relevant agencies, such as the Ministry of Defense, the Public Procurators and the Courts... in this matter.

2. The mechanism to provide early warning to other countries on terrorist acts has been implemented within the framework of cooperation in INTERPOL and ASEANPOL, to which Viet Nam is a party. Viet Nam has also concluded international treaties (of different levels) on cooperation in preventing and suppressing crimes with other countries, such as China, Laos, Cambodia, Thailand, Myanmar, the Philippines, Cuba, France, Ukraine, the People's Democratic Republic of Korea, and is negotiating for the conclusion of such treaties with some other countries. Within the framework of these bilateral treaties, the contracting parties undertake to cooperate in the exchange and provision of information concerning criminal activities, and in their fight against crimes, including the crime of terrorism.

## V. Sub-paragraph 2(c) of Resolution 1373 (2001):

Legislation that prohibits terrorists from residing and conducting activities in Viet Nam:

1. Ordinance on the Entry into, Departure out of and Residence in Viet Nam of Foreigners, adopted on April 28, 2000, provides that:

"*Article 1.*

*1. The State of the Socialist Republic of Viet Nam creates favourable conditions for the entry into, departure out*

*of, or transit via Viet Nam by foreigners; protects the life, properties, and legal rights and interests of foreigners residing in Viet Nam under Viet Nam's law and international treaties to which the Socialist Republic of Viet Nam is a party.*

*2. Foreigners, who enter into, depart from, transit via or reside in Viet Nam shall observe Viet Nam's law and respect the traditions, customs and practices of the Vietnamese people. They are strictly prohibited to abuse their entry into, departure from, transit via, or residence in Viet Nam for the violation of the law.*

*3. In case the international treaties to which the Socialist Republic of Viet Nam is a party have provisions on the entry into, departure from, transit via, or residence in Viet Nam by foreigners different from the provisions of this Ordinance, the provisions of the international treaties shall prevail."*

*"Article 8.*

*1. The Vietnamese competent state authorities shall not allow foreigners to enter Viet Nam in one of the following cases:*

....

*d) The foreigners had severely violated Viet Nam's law in their previous entry;*

*đ) For the reason of national security, or other special reasons as decided by the Minister of Public Security.*

*2. The Minister of Public Security shall consider and decide whether the foreigners falling within the cases mentioned in paragraph 1 of this article could enter Viet Nam."*

2. Foreigners, who are given sentence by the courts for having committed an offence, including an act of terrorism, may be expelled from Viet Nam in accordance with the provisions of Article 32 of the 1999 Penal Code.

**VI. Sub-paragraph 2 (e) of Resolution 1373 (2001):**

1. Article 84 on Terrorism of the Penal Code is provided in sub-paragraph 2(a) above of this Report.

2. The courts of Viet Nam shall have jurisdiction over:

- An act committed outside Viet Nam by a person who is a national of, or habitually resident in Viet Nam (whether that person is currently present in Viet Nam or not):

According to paragraph 2 of Article 2 of the 1988 Criminal Procedure Code (revised) of the Socialist Republic of Vietnam, if an alleged offender is prosecuted in Viet Nam for an offence committed abroad, the provincial people's court at the offender's latest residence in Viet Nam will be entitled to commit the offender for trial. If it is not possible to define his latest residing place, depending on each case, the Chairperson of the People's Supreme Court will decide to confer the case to either the People's Court of the City of Hanoi or that of the Ho Chi Minh City for trial. If the alleged offender falls within the jurisdiction of a military court, a military court of the military-zone level or that of upward level shall have jurisdiction over the case, as decided by the Chairperson of the Central Military Court.

- An act committed outside Viet Nam by a foreign national who currently resides in Viet Nam:

According to paragraph 2 of Article 6 of the 1999 Penal Code, foreigners who commit offenses outside the territory of the Socialist Republic of Viet Nam may be subject to penal liability under the Penal Code of Viet Nam in the circumstances provided for in the international treaties to which Viet Nam is a party.

## VII. Sub-paragraph 2 (f) of Resolution 1373 (2001)

1. Bilateral treaties on mutual assistance in criminal matters to which Viet Nam is a party:

- Agreement on mutual judicial and legal assistance in civil, family and criminal matters between the Socialist Republic of Viet Nam and the Union of the Soviet Socialist Republics, signed on 10 December 1981;

- Agreement on mutual judicial and legal assistance in civil and criminal matters between the Socialist Republic of Viet Nam and the Socialist Republic of Czechoslovakia, signed on 12 October 1982;

- Agreement on mutual judicial assistance in civil, family and criminal matters between the Socialist Republic of Viet Nam and the People's Republic of Hungary, signed on 18 January 1985;

- Agreement on mutual judicial assistance in civil, family and criminal matters between the Socialist Republic of Viet Nam and the People's Republic of Bulgaria, signed on 3 October 1986;

- Agreement on mutual judicial assistance in civil, family and criminal matters between the Socialist Republic of Viet Nam and the Republic of Poland, signed on 22 March 1993;

- Agreement on mutual judicial assistance in civil and criminal matters between the Socialist Republic of Viet Nam and the People's Democratic Republic of Laos, signed on 6 July 1998;

- Agreement on mutual judicial and legal assistance in civil and criminal matters between the Socialist Republic of Viet Nam and the Russian Federation, signed on 25 August 1998;

- Agreement on mutual judicial assistance in civil and criminal matters between the Socialist Republic of Viet Nam and the People's Republic of China, signed on 19 October 1998;

- Agreement on mutual judicial and legal assistance in civil and criminal matters between the Socialist Republic of Viet Nam and Ukraine, signed on 6 April 2000;

- Agreement on mutual judicial assistance in civil, family and criminal matters between the Socialist Republic of Viet Nam and Mongolia, signed on 17 April 2000;

- Agreement on mutual judicial and legal assistance in civil, family, labour and criminal matters between the Socialist Republic of Viet Nam and the Republic of Belarus, signed on 14 September 2000.

2. The legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings must be met :

At present, Viet Nam has not adopted specific provisions on such timeframe. The legal and judicial assistance is implemented in accordance with the agreements concluded by Viet Nam. The requests for judicial assistance in criminal investigations are normally responded by Viet Nam relevant agencies in a speedy, adequate and effective manner, and in accordance with the treaties to which Viet Nam is a party.

## VIII. Sub-paragraph 2 (g) of Resolution 1373 (2001)

1. The mechanism for inter-agency co-ordination between the authorities responsible for narcotics control, finance and security, in particular with regard to border control:

Between the competent authorities in charge of border control and prevention from illegal border crossings (the Ministry of Defense and the Ministry of Public Security), there exists close and unified coordination, under the leadership of the Government and the management of the local administration; the two above-mentioned Ministries are responsible for providing advice, carrying out activities to ensure border security, directing their subordinate forces to cooperate in actions.

2. Under her law, Viet Nam has done every efforts to control its entire borderline against illegal border crossings. Accordingly, any attempt to illegally cross the border will be dealt by the law on the basis of its extent, motive and negative effects. Viet Nam's law also provides that safeguarding the border is the task of the entire people and army of Viet Nam and directly carried out by the local administrations and the people in the border areas, among whom the border guards is the core forces. Border safeguarding is realized by measures of ensuring the state management of the border and mobilizing the participation and contribution of the forces and the people in the border areas.

## IX. Sub-paragraph 3 (c) of Resolution 1373 (2001)

Up to now, the legal basis for extradition of criminals in Viet Nam is international treaties concluded between Viet Nam and other parties concerned. Presently, Viet Nam has not concluded any bilateral agreement particularly on extradition. However extradition has been included in relevant treaties concluded between Viet Nam and some other countries (namely Poland, Laos, Russia, Ukraine, Belarus, Mongolia...) and in the multilateral treaties on counter-terrorism to which Viet Nam is a party.

Moreover, Viet Nam in fact has carried out extradition in some cases on which the two parties concerned had reached certain arrangement.

In the coming time, it is possible that Viet Nam will consider the adopting separate legal instruments on extradition, and prepare necessary conditions to conduct negotiations with the States that wish to conclude bilateral agreement on extradition with Viet Nam.

## X. Sub-paragraph 3 (d) of Resolution 1373 (2001)

1. Up to now, Viet Nam has become a party to the following eight international conventions and protocols relating to terrorism:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, done in Tokyo on 14 September 1963. The Convention entered into force for Viet Nam on 8 January 1980;

- Convention for the Suppression of Unlawful Seizure of Aircraft, done in The Hague on 16 December 1970. The Convention entered into force for Viet Nam on 8 January 1980;

- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, adopted in Montreal on 23 September 1971. The Convention entered into force for Viet Nam on 8 January 1980;

- Protocol for the Suppression of Unlawful Acts of Violence at airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, which was done in Montreal on 24 February 1988. The Protocol entered into force for Viet Nam on 24 September 1999;

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic

Agents, concluded in New York on 14 December 1973. The Convention entered into force for Viet Nam on 1 June 2002;

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done in Rome on 10 March 1988. The Convention entered into force for Viet Nam on 10 October 2002;

- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, concluded in Rome on 10 March 1988. The Protocol entered into force for Viet Nam on 10 October 2002;

- International Convention for the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly in New York on 19 December 1999. The Convention entered into force for Viet Nam on 25 October 2002.

2. In addition, Viet Nam is considering the possibility of acceding to other international conventions relating to terrorism, such as:

- International Convention against the Taking of Hostages, adopted by the UN General Assembly in New York on 17 December 1979;

- Convention on the Physical Protection of Nuclear Material, done in Vienna on 26 October 1979;

- Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted in Montreal on 1 March 1991;

- International Convention for the Suppression of Terrorist Bombings, adopted by the UN General Assembly in New York on 15 December 1997.

3. According to the Draft Strategy for Development of the Vietnamese Legal System up to the Year 2010, which is being finalized by the Ministry of Justice in cooperation with other concerned ministries, the 1999 Penal Code will be revised to include Viet Nam's rights and obligations relating to counter-terrorism under the international treaties to which Viet Nam is a party.

## XI. Sub-paragraph 3 (e) of Resolution 1373 (2001)

Regarding the inclusion of the offences set forth in the relevant international conventions and protocols into the list of offences as extraditable in the bilateral treaties to which Viet Nam is a party:

In accordance with the bilateral agreements between Viet Nam and other States (as mentioned above) on mutual legal and judicial assistance in criminal matters, all criminal offenders are extraditable, except offenders of some particular crimes, which are punishable by death penalty under one contracting party's law while not punishable likewise under the other party's law.

## XII. Sub-paragraph 3 (f) of Resolution 1373 (2001)

Regarding provisions, procedures and mechanism available for ensuring that refugee status is not granted to asylum seekers who have been involved in terrorist activity, at present, Viet Nam has not adopted any separate legal instrument on refugees.

## XIII. Sub-paragraph 3 (g) of Resolution 1373 (2001)

Viet Nam has not adopted any particular provision on refusals of extradition requests of terrorist suspects for political reasons. As mentioned in Section IX of this Report, extradition is carried out in accordance with the provisions of agreements to which Viet Nam is a party.

## XIV. Paragraph 4 of Resolution 1373 (2001) relating to measures against transnational crimes

On the national level, Viet Nam adopted the National Programme for the Prevention and Suppression of Crimes in 1998 (Programme 138). In particular, this Programme includes Plan No. 3 relating to the prevention and suppression of organized crimes, dangerous crimes and transnational crimes, with great emphasis on the prevention and suppression of transnational crimes, such as smuggling, money laundering, piracy, terrorism, etc. The implementation of this Programme in the last few years has recorded positive results.

On the regional and sub-regional levels, Viet Nam has actively participated in the activities aimed at suppressing and preventing transnational crimes within the framework of the ASEAN Ministerial Meeting on Transnational Crimes (AMMTC). In August 2001, Viet Nam organized a Conference of ASEAN high-level experts on the United Nations Convention on Transnational Organized Crimes and its related Protocols. The Conference contributed to heightening the awareness of the ASEAN experts about the threats caused by transnational organized crimes to the economic development, stability and security of individual State and the whole region, and about the need for intensified cooperation between and among the ASEAN countries in fighting and preventing this dangerous form of crimes in a more effective manner.

In August 2002, Viet Nam and other ASEAN countries issued the ASEAN - United States Joint Declaration on Counter-Terrorism Cooperation. Most recently, during the 8th ASEAN Summit in Phnom Penh (Cambodia) in November 2002, ASEAN also adopted the second Declaration on Terrorism. On the occasion of this Summit, the ASEAN and China signed a Joint Declaration on Cooperation in the Field of Non-traditional Security Issues. These Declarations reaffirm the determination of the ASEAN countries, including Viet Nam, to cooperate with other

countries and the international community as a whole, in the fight against terrorism, and for the establishment of the frameworks for cooperation and strengthening the effectiveness of anti-terrorism efforts of each State and the whole region.

Viet Nam is considering the possibility of acceding to the Agreement on Information Exchange and Establishment of Communication Procedures between Indonesia, Malaysia and the Philippines, signed on 7 May 2002 to combat transnational organized crimes, in particular terrorism.

On the international level, Viet Nam has been a party to three United Nations conventions on control of narcotic drugs and psychotropic substances. In December 2000, Viet Nam signed the United Nations Convention against Transnational Organized Crimes and is now considering ratifying the Convention. In addition, Viet Nam has concluded many bilateral agreements on cooperation in preventing and fighting crimes with other countries.

## C. CONCLUSION

Viet Nam is deeply aware of the potential threats and severe consequences caused by terrorist acts to different aspects of life in all States. Viet Nam holds that to prevent and suppress international terrorism, states need to strengthen cooperation in a close and comprehensive manner through bilateral, regional and multilateral cooperation, as well as through international organizations. Viet Nam strongly supports the international community's efforts against terrorism, on the basis of compliance with the United Nations Charter, the fundamental principles of international law, and in the interests of world peace, stability and security.

In that spirit, besides steadily consolidating and developing the national legal system aimed at preventing and suppressing terrorism, Viet Nam is actively cooperating with the international community to combat this very dangerous crime by strictly implementing its international commitments in this regard. Viet Nam is also ready to further cooperate with other countries and international organizations in the region and the world over in combating international terrorism in accordance with the above-mentioned principles. This Supplementary Report manifests the determination of the Vietnamese national agencies in implementing the UN Security Council's Resolution 1373 (2001). Viet Nam will always cooperate with the United Nations in this matter./.

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United Nations S/2003/129

Security Council

Distr.: General
31 January 2003

Original: English

**Letter dated 28 January 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council**

I write with reference to my letter of 4 October 2002 (S/2002/1162).

The Counter-Terrorism Committee has received the attached supplementary report from Turkmenistan (see annex) submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-23710 (E) 120203 130203

## Annex

### Letter dated 15 January 2003 from the Permanent Representative of Turkmenistan to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In reference to your letter dated 27 September 2002, attached please find the additional report from the Government of Turkmenistan pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Aksoltan **Ataeva**
Ambassador
Permanent Representative

## Enclosure

[Original: Russian]

### Report of Turkmenistan on the supplementary questions from the Counter-Terrorism Committee on measures to implement Security Council resolution 1373 (2001)

The law-enforcement agencies of Turkmenistan, in their defence of the freedoms of citizens from acts of terrorism and extremism as guaranteed under the Constitution, apply legal, constitutional measures and means to discover and prevent the perpetration of such acts.

Within our law-enforcement agencies there is a special rapid-response unit, whose tasks include the neutralization and seizure of terrorists and the freeing of hostages, should there be any.

A plan has been developed and put into operation to combat terrorist phenomena; it provides for measures making it possible to obtain early-warning information on the terrorist intentions of hostile elements for the subsequent elimination of the danger posed by such criminal conspiracies.

The law-enforcement agencies systematically carry out precautionary checks on the storage, use and transport of firearms, explosives, and poisonous and radioactive materials.

Bearing in mind the neutral status of Turkmenistan, the appropriate agencies participate as observers in the work of the Council of Heads of Security Organs and Special Services of the Countries of the Commonwealth of Independent States, and the Conference of Special Services of Turkic-Language States; they also exchange information with the Anti-Terrorism Centre of the Commonwealth of Independent States, including on matters relating to the war against extremist and terrorist phenomena. Information received on specific people, persons from Turkmenistan, suspected of terrorist intent is taken into account and entered into a databank for operational use.

Ensuring social order and domestic security in the preparations for and holding of festivities of State importance is handled in conformity with a standing plan of joint measures on the part of all of the "power" departments of the country, where the main task is to detect and prevent possible terrorist acts in a timely manner and to neutralize their perpetrators.

Law-enforcement agencies carefully monitor the operational situation with regard to the war against terrorism.

This report was prepared in conformity with the letter dated 27 October 2002 from the Chairman of the Counter-Terrorism Committee, Sir Jeremy Greenstock, in document S/AC.40/2002/MS/OC.161 on supplementary questions on measures to implement Security Council resolution 1373 (2001).

**Subparagraph 1 (a)**

Article 271 of the Criminal Code of Turkmenistan defines a terrorist act as:

"1. Terrorism, that is, causing an explosion or fire or other acts that jeopardize human life, cause significant property damage or have other dangerous consequences for society, where those acts are committed to violate public security, cause panic or influence decision-making by government authorities, including the threat to commit such acts for those purposes, shall be punishable by imprisonment for 5 to 10 years.

"2. Those same acts, when committed:

(a) Repeatedly;

(b) With the use of firearms;

(c) By a group of people on the basis of prior agreement, shall be punishable by imprisonment for 8 to 15 years.

"3. If the acts described in paragraphs 1 and 2 of this article cause death or are committed by an organized group or a criminal organization, they shall be punishable by imprisonment for 10 to 25 years."

The Criminal Code of Turkmenistan also provides for criminal liability for the commission of acts in Turkmenistan that are in and of themselves not criminal but are linked to acts committed or intended to be committed outside Turkmenistan that are of a criminal or even terrorist nature. Such liability is provided for in article 275 of the Criminal Code of Turkmenistan (on the organization of a criminal association or participation in a criminal association). Liability is engaged at the time when the acts in question begin.

Turkmenistan's criminal legislation covers the types of complicity (art. 33), on the basis of which it is necessary to identify all participants in a crime, i.e. the organizer, the instigator and the accomplice. If investigation reveals a source of financing (collection of funds), that has a bearing on the categorization of the act.

The Criminal Code also establishes criminal liability for: deliberately false information about a terrorist act (art. 272), organization of an illegal armed unit or participation in such a unit (art. 273), banditry (art. 274), organization of a criminal association or participation in such an association (art. 275), hijacking or seizing an aircraft, boat or railway rolling stock (art. 277), robbery (art. 231), extortion (art. 232), kidnapping (art. 126), seizure of hostages (art. 130), and sabotage (art. 173).

**Subparagraph 1 (b)**

Article 6 of the Constitution of Turkmenistan states that "Turkmenistan is a fully fledged member of the world community, recognizes the priority of the generally recognized rules of international law, and maintains a foreign policy based on the principles of permanent positive neutrality, non-interference in the internal affairs of other countries, renunciation of the use of force and of participation in military blocs and unions, and promoting the development of peaceful, friendly and mutually advantageous relations with the countries of the region and States throughout the world." This constitutional provision means that, if an international treaty to which Turkmenistan is party stipulates provisions and rules different from

those established in domestic legislation, those in the international treaty are applied.

However, with reference to the requirement in article 4 of the International Convention for the Suppression of the Financing of Terrorism that calls on States to make the offences specified in article 2 of that Convention "punishable by appropriate penalties which take into account the grave nature of the offences", we state that Turkmenistan is not currently a party to that Convention.

**Subparagraph 1 (c) and (d)**

In accordance with article 20 of the Act of 8 October 1993 on commercial banks and banking activities, banks provide information with regard to juridical persons upon official request from the following authorized bodies: the higher organizations, State tax inspectorates, courts, investigative bodies, audit organs; and with regard to physical persons to courts and investigative bodies. Information on accounts is prepared by authorized persons and provided in respect of juridical and physical persons.

In conformity with the same Act, the banks of Turkmenistan, including the Central Bank, guarantee secrecy with respect to the operations, accounts and deposits of their clients and correspondents. Information about the operations and accounts of juridical persons is given to competent organs in the field upon their official request, and information about the accounts of citizens, except for the clients themselves and their representatives, is also given to courts and investigative bodies working on particular cases. The monetary assets of persons accused of a crime may be seized through decisions by a court or the investigative bodies, but punishment may be imposed on the basis of a sentence or decision handed down by a court.

Inside Turkmenistan, the Central Bank of Turkmenistan circulates information received from competent organs to commercial banks with instructions to freeze the accounts of persons mentioned in the information.

Outside Turkmenistan, duly authorized organs send requests that accounts be frozen with an indication of the grounds for doing so.

The Criminal Code of Turkmenistan establishes criminal liability for non-return of funds in foreign currency from abroad (art. 260). The corpus delicti in this case is the unreturned sum of money that was obtained legally.

Budgetary resources for organizations financed by the budget are allocated, in accordance with the Act on the State budget of Turkmenistan, only on the basis of specific directives and this is done though the Central Fund, which has been opened in the Central Bank.

In Turkmenistan, some banks use the Western Union remittance system.

**Subparagraph 2 (a) and (b)**

Sections VIII and IX of the Criminal Code of Turkmenistan establish criminal liability for crimes against the peace and security of mankind, as well as crimes against the State.

**Article 169. Mercenarism**

(1) The recruitment, training, financing and other material support of mercenaries, as well as their use in armed conflict or other military actions shall be punishable by imprisonment for three to eight years.

(2) The participation of mercenaries in armed conflict or military actions shall be punishable by imprisonment for 5 to 10 years.

*Note: A mercenary is defined as a person who acts in order to obtain material compensation, is not a national of a State participating in the armed conflict or military actions, is not a permanent resident in its territory, and has not been sent to carry out official duties.*

**Article 171. Treason**

Treason, i.e. espionage, the revealing of State secrets or providing other assistance to a foreign State in carrying out hostile activities to the detriment of the independence, integrity, territorial inviolability, State security, neutrality and defence capability of Turkmenistan, when committed by a national of Turkmenistan, shall be punishable by imprisonment for 10 to 25 years.

**Article 172. Espionage**

The handing over, as well as the gathering, stealing or keeping with a view to the handing over to a foreign State, foreign organization or their representatives, of information that constitutes a State secret, and also the handing over and gathering at the request of foreign intelligence services of other information for their use to the detriment of the independence, State sovereignty, neutrality, territorial integrity, national security or defence capability of Turkmenistan, when such acts are carried out by aliens or stateless persons, shall be punishable by imprisonment for 10 to 25 years.

**Article 179. Divulging State secrets**

(1) The divulging of information constituting a State secret by a person with access to State secrets, if that act has caused detriment to the interests of the State but there is no evidence of treason, shall be punishable by imprisonment for up to five years, with possible deprivation of the right to hold certain posts or engage in certain activities for up to three years.

(2) The same acts, if they led to serious consequences, shall be punishable by imprisonment for three to eight years, with or without the deprivation of the right to hold certain posts or engage in certain activities for up to three years.

**Article 180. Loss of documents containing State secrets**

(1) The loss of documents containing State secrets or of objects, information about which constitutes a State secret, by a person to whom they had been entrusted, in the course of his service-related or professional activities, where that loss was the result of a breach of established rules for handling such documents or objects, shall be punishable by punitive deduction of earnings for up to two years or imprisonment for up to two years, with or without the deprivation of the right to hold certain posts or engage in certain activities for up to three years.

(2) The same act, if it led to serious consequences, shall be punishable by imprisonment for up to five years, with the deprivation of the right to hold certain posts or engage in certain kinds of work for up to three years.

**Article 273. Organization of an illegal armed unit or participation therein**

(1) The establishment of an armed unit not provided for in the legislation of Turkmenistan and the leadership of such a unit shall be punishable by imprisonment for three to eight years.

(2) Participation in an illegal armed unit shall be punishable by imprisonment for up to five years.

*Note: A person who ceases voluntarily to participate in an illegal armed unit and surrenders his weapon shall be exempt from criminal liability provided that he has not committed other offences.*

**Article 274. Banditry**

(1) The establishment of a standing organized armed group (band) for the purpose of attacking citizens or organizations, the leadership of such a group (band) and participation in attacks committed by a band shall be punishable by imprisonment for 10 to 25 years, with or without confiscation of property.

(2) Participation in an armed group (band) shall be punishable by imprisonment for 5 to 15 years, with or without confiscation of property.

**Article 275. Organization of a criminal association or participation therein**

(1) The establishment of a criminal association for the purpose of committing serious or especially serious offences and the leadership of such an association shall be punishable by imprisonment for 8 to 15 years, with or without confiscation of property.

(2) Participation in a criminal association shall be punishable by imprisonment for 3 to 10 years, with or without confiscation of property.

**Article 287. Illegal acquisition, sale, possession, transport, sending or bearing of weapons, ammunition, explosives or explosive devices**

(1) The illegal acquisition, sale, possession, transport, sending or bearing of firearms, ammunition, explosives or explosive devices shall be punishable by imprisonment for up to five years.

(2) The same acts committed by a group of persons on the basis of prior agreement or on repeated occasions shall be punishable by imprisonment for two to seven years.

(3) The acts referred to in paragraphs 1 and 2 of this article committed by an organized group or a criminal association shall be punishable by imprisonment for 5 to 10 years.

(4) The illegal sale or bearing of daggers, Finnish knives or other edged weapons, including throwing weapons, and the illegal sale of gas pistols, gas cylinders or other gas weapons shall be punishable by a fine of 25 to 50 times the average

monthly wage or by punitive deduction of earnings for up to two years or by imprisonment for up to two years.

*Note: A person who voluntarily surrenders items referred to in this article is exempted from criminal liability provided that he has not committed other offences.*

**Article 288. Illegal manufacture of weapons**

(1) The illegal manufacture or repair of firearms or firearm spare parts and the illegal manufacture of ammunition, explosives or explosive devices shall be punishable by imprisonment for up to three years.

(2) The same acts committed by a group of persons on the basis of prior agreement or on repeated occasions shall be punishable by imprisonment for two to five years.

(3) The illegal manufacture of gas weapons, daggers, Finnish knives or other edged weapons, including throwing weapons, shall be punishable by punitive deduction of earnings for up to two years or by imprisonment for up to three years.

*Note: A person who voluntarily surrenders items referred to in this article is exempted from criminal liability provided that he has not committed other offences.*

**Article 254. Smuggling**

(1) Smuggling, that is the large-scale transfer across the customs border of Turkmenistan of goods or other items for which special rules have been established regarding their transfer across the customs border of Turkmenistan, with the exception of goods and items referred to in paragraph 3 of this article, carried out without the knowledge of customs inspectors or concealed from them through the fraudulent use of documents or means of customs identification, or involving the failure to make a declaration or the making of a false declaration, shall be punishable by a fine of 25 to 50 times the average monthly wage or by punitive deduction of earnings for up to two years or by imprisonment for up to three years, with or without confiscation of property.

(2) The act referred to in paragraph 1 of this article committed:

(a) On repeated occasions;

(b) By a group of persons on the basis of prior agreement or an organized group;

(c) By an official using his position or by a person exempt from customs inspections;

(d) With the use of violence against a person conducting customs inspections shall be punishable by imprisonment for two to five years, with or without confiscation of property.

(3) The transfer across the customs border of Turkmenistan of narcotic drugs, psychotropic, virulent, toxic, poisonous or radioactive substances, explosives, arms, explosive devices, firearms or ammunition, nuclear, chemical, biological and other types of weapons of mass destruction, materials and equipment that may be used to make weapons of mass destruction and for which special rules have been established regarding their transfer across the customs border of Turkmenistan, strategically important raw materials, and cultural artefacts for which special rules have been

established regarding their transfer across the customs border of Turkmenistan, if such act is committed without the knowledge of customs inspectors or is concealed from them through the fraudulent use of documents or means of customs identification, or involves the failure to make a declaration or the making of a false declaration, shall be punishable by imprisonment for three to eight years, with or without confiscation of property.

(4) The act referred to in paragraph 3 of this article committed:

(a) On repeated occasions;

(b) By a group of persons on the basis of prior agreement or an organized group;

(c) By an official using his position or by a person exempt from customs inspections;

(d) With the use of violence against a person conducting customs inspections shall be punishable by imprisonment for 5 to 10 years, with or without confiscation of property.

*Note: The act referred to in paragraph 1 of this article is deemed to have been committed on a large scale if the value of the goods transferred is more than 30 times the average monthly wage.*

The system of permits (for the possession, use and transport of weapons) implemented by Turkmenistan's internal affairs agencies applies to military models of combat and rifled weapons, custom-made (including blank) weapons, practice, sporting, large-calibre (7.62 mm or greater), small-calibre, hunting and rifled (including small-calibre) weapons, smoothbore firearms, ammunition for such types of weapons, and edged and bladed weapons (hunting knives, sabres, combat knives, daggers, etc.) owned by organizations and citizens, with the exception of those under the authority of the Ministries of Defence, National Security and Internal Affairs and the State Border Service of Turkmenistan.

A single system for the acquisition, registration and possession of sporting shotguns has been introduced in the territory of Turkmenistan. Smoothbore and rifled sporting shotguns may be sold by citizens on authorization by the internal affairs agencies. Persons who are members of hunting and angling clubs have the right to acquire such weapons.

Citizens acquiring sporting smoothbore firearms undergo special checks, after which they are issued with permits.

Sporting firearms acquired by citizens must be registered within 10 days at the internal affairs agencies in the owner's place of residence; the owner receives a permit for possession of a firearm valid for three years, after which the firearm must be re-registered. Ammunition for weapons and powder may be obtained by citizens in shops specializing in the sale of sporting firearms, in accordance with the established issuing rules, only on presentation of a hunting licence and a permit issued by an internal affairs agency for possession of that type of weapon.

The centralized transport of firearms and ammunition is carried out under armed guard. Firearms and ammunition may be transported in hand luggage on authorization by the internal affairs agencies. With the exception of military models of weapons, firearms and live firearm cartridges imported and exported by citizens

across the State border of Turkmenistan are permitted to pass by the customs institutions on the basis of permits issued by the Ministry of Internal Affairs.

The Criminal Code of Turkmenistan provides for criminal liability for the illegal acquisition, sale, possession, transport, sending or bearing of weapons, ammunition, explosives or explosive devices (art. 287), the illegal manufacture of weapons (art. 288), and the theft or extortion of weapons, ammunition, explosives or explosive devices (art. 291).

Counter-terrorism in Turkmenistan is effected by specialized departments of the Ministry of Internal Affairs and the Ministry of National Security of Turkmenistan and, in the regions (*velayats*), by subdivisions of these departments.

The work of these departments is regulated and sanctioned by the Council of Ministers of Turkmenistan.

Turkmenistan is a party to the Agreement on Cooperation among the Ministries of Internal Affairs of the Independent States in the Fight against Crime, of 24 April 1992 (signed in Almaty). The Agreement states that cooperation among the parties shall also take the form of the exchange of information concerning operations, investigations, inquiries and forensic evidence with respect to offences that are being planned or have been committed and persons involved in such offences, as well as archive information.

In addition, the Decision of the Council of Ministers of Internal Affairs of the States Members of the Commonwealth of Independent States concerning Cooperation in Combating Terrorism, signed in Dushanbe, refers to the need to ensure the immediate transmission to the competent agency of the Ministry of Internal Affairs concerned of information on persons and organizations planning to commit terrorist acts or engaged in terrorist activity.

**Subparagraphs 2 (c) and 3 (f)**

The Act of Turkmenistan on refugees, of 12 June 1997, establishes the procedure and conditions for recognizing persons as refugees, their legal status, and the legal, economic and social safeguards for the protection of their rights.

**Article 7. Conditions under which refugee status is not granted**

Refugee status shall not be granted to a person where there are serious grounds to believe that he or she:

- Has committed a crime against peace, a military crime or a crime against humanity, as defined in the international instruments drafted for the purpose of taking measures in respect of such crimes;
- Has committed a serious crime of a non-political nature outside Turkmenistan before being admitted to Turkmenistan as a refugee;
- Is guilty of committing acts that run counter to the purposes and principles of the United Nations.

In addition, refugee status shall not be granted to a person:

- Whose rights and obligations as a citizen of the State in which he or she resides are recognized and guaranteed by the competent authorities of that State;

- Who was present, before arriving in Turkmenistan, in a State in which he or she could obtain asylum or official refugee status, in accordance with the established procedure.

**Article 9. Loss or revocation of refugee status**

A person shall lose refugee status if he:

- Once again voluntarily avails himself of the protection of the country of which he is a national or,

- Having lost his nationality, once again voluntarily acquires it, or

- Acquires a new nationality and avails himself of the protection of the State of his new nationality, or

- Once again voluntarily settles in the country which he left or outside which he stayed as a result of fear of prosecution, or

- Can no longer refuse to avail himself of the protection of the country of which he is a national because the circumstances on the basis of which he was recognized as a refugee no longer exist.

A person shall lose refugee status if he:

- Acquires refugee status by deliberately providing false information or falsified documents,

- Participates in activities which constitute, on the basis of well-founded reasons, a threat to Turkmenistan's State security or social order,

- Participates in activities that run counter to the purposes and principles of the United Nations.

The person in question shall be informed of the decision to revoke his refugee status in writing within a period of 10 days with an indication of the grounds as specified in this article and the appeal procedure.

At the present time, in accordance with an agreement between Turkmenistan and the Office of the United Nations High Commissioner for Refugees, the Office has the authority to grant refugee status to persons in the territory of Turkmenistan.

**Subparagraph 2 (d)**

In order to prevent crimes linked to terrorism, Turkmenistan's law-enforcement agencies, in particular, the Ministry of Internal Affairs and the Ministry of National Security, conduct, within the framework of their functional obligations, ongoing operational and preventive work which also involves the detection of persons inclined to terrorist activities and their circle of acquaintances.

In order to prevent crimes directly or indirectly linked to terrorism, Turkmenistan's law-enforcement agencies apply a set of measures to ensure cooperation and coordination in these activities. When international issues arise,

they are resolved in accordance with international laws through Turkmenistan's Ministry of Foreign Affairs.

**Subparagraph 2 (e)**

Articles 7 and 8 of the Criminal Code relate to this subparagraph. Article 7 concerns criminal law in respect of persons who have committed crimes in the territory of Turkmenistan. Article 8 deals with criminal law with respect to persons who have committed crimes outside Turkmenistan.

**Article 7. Criminal law in respect of persons who have committed crimes in the territory of Turkmenistan**

(1) Persons who have committed crimes in the territory of Turkmenistan shall be subject to liability under Turkmenistan's criminal law.

(2) Crimes committed within Turkmenistan's territorial waters or airspace shall be considered as having been committed in the territory of Turkmenistan. The Criminal Code shall also apply to crimes committed on the continental shelf and in the maritime economic zone of Turkmenistan.

(3) Persons who have committed crimes on board a vessel registered in a port of Turkmenistan and situated in the water or airspace beyond its borders shall be liable under Turkmenistan's criminal law, unless otherwise provided for under an international treaty to which Turkmenistan is a party.

(4) When a crime is committed in the territory of two or more States, liability shall be incurred under Turkmenistan's criminal law if the crime is halted or suppressed in the territory of Turkmenistan.

(5) The question of the criminal liability of diplomatic representatives of foreign States and other persons who invoke immunity when such persons commit a crime in the territory of Turkmenistan shall be resolved on the basis of the norms of international law and the international treaties to which Turkmenistan is a party.

**Article 8. Criminal law in respect of persons who have committed crimes outside Turkmenistan**

(1) Citizens of Turkmenistan and also persons permanently residing in Turkmenistan without citizenship who have committed a crime provided for under Turkmenistan's criminal law outside Turkmenistan shall be subject to liability under the criminal legislation of Turkmenistan if liability for the act committed is provided for under the criminal law of the State in whose territory it was committed and if these persons have not been convicted in a foreign State. Punishment exceeding the maximum punishment provided for under the law in force in the place where the crime was committed may not be imposed.

(2) Foreign nationals and stateless persons who are not permanently residing in Turkmenistan shall be subject to liability under the criminal law of Turkmenistan for a crime committed outside Turkmenistan if the crime was directed against Turkmenistan or its citizens and also in the cases provided for under international treaties to which Turkmenistan is a party if they have not been convicted in a foreign State and have been charged with criminal liability in the territory of Turkmenistan.

**Article 9. Extradition of persons who have committed a crime**

(1) Citizens of Turkmenistan who have committed a crime in the territory of a foreign State shall not be subject to extradition to that State.

(2) Foreign nationals and stateless persons who have committed a crime outside Turkmenistan and are situated in the territory of Turkmenistan may be extradited to a foreign State for criminal prosecution or to serve a sentence in accordance with the international treaties to which Turkmenistan is a party and agreements, conventions and other international legal documents to which Turkmenistan has acceded.

**Subparagraph 2 (f)**

The following is a list of the bilateral and multilateral treaties on mutual assistance in criminal matters to which Turkmenistan is a party:

The Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, of 22 January 1993, signed by 13 States members of the Commonwealth of Independent States;

The Treaty between Turkmenistan and Georgia on the Mutual Provision of Legal Assistance in Civil and Criminal Cases, signed in Tbilisi on 20 March 1996 and ratified by a decision taken by the Majlis (Parliament) of Turkmenistan on 18 June 1996;

The Treaty between Turkmenistan and the Republic of Uzbekistan on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, signed on 27 November 1996 and ratified by a decision taken by the Majlis (Parliament) of Turkmenistan on 20 December 1996;

The Treaty between Turkmenistan and the Republic of Armenia on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, signed in Ashgabat on 29 November 2000 and ratified by a decision taken by the Majlis (Parliament) of Turkmenistan on 7 July 2001.

The content of and procedure for submitting a request for the provision of legal assistance in criminal cases and the procedure for carrying out the request are governed by the treaties and conventions indicated; the time frame for implementing a request for assistance in criminal cases is not indicated since it is determined by the questions put forward by the requesting party and the extent of the legal assistance to be provided.

**Subparagraph 2 (g)**

Inter-agency coordination between the authorities responsible for combating illegal trafficking in narcotic substances is carried out on the basis of the National Plan of Measures to Combat Illegal Trafficking in Narcotics and the Provision of Assistance to Persons Dependent on Narcotics and Psychotropic Substances, which is being adopted by Turkmenistan's Cabinet of Ministers. The Plan is to be implemented by the Cabinet's State Coordinating Committee to Combat Drug Addiction, the Ministry of Internal Affairs, the Ministry of National Security, the Ministry of Health and the Medical Industry, the General Prosecutor's Office, the Supreme Court, the State Border Service, the Ministry of Defence, the State Customs Service, the Ministry of Justice, the State Raw-Materials Commodity Exchange, the Ministry of Economics and Finances and local administrations.

Turkmenistan's Ministry of Internal Affairs conducts specific work aimed at preventing counterfeiting.

Enterprises, organizations, institutions and also enterprises in the inter-State sector which have typographic equipment are subject to special monitoring. Persons convicted previously of counterfeiting are being monitored.

Turkmenistan's Penal Code provides for criminal liability for the stealing or damaging of documents, stamps, seals or forms (art. 217), the forgery, manufacture and sale of counterfeit documents, stamps, seals and forms or the use of false documents (art. 218), the manufacture for sale or the sale of counterfeit money or securities (art. 252), the manufacture for sale or the sale of counterfeit credit or payment cards and other payment documents (art. 253), the counterfeiting of postal payment marks and transit documents (art. 266), unlawful access to computer information (art. 334), and the creation, use and dissemination of programmes harmful to electronic computers (art. 335).

**Paragraph 3**

Article 9 of the Criminal Code of Turkmenistan, on the extradition of persons who have committed a crime, provides that:

1. Citizens of Turkmenistan who have committed a crime in the territory of a foreign State shall not be subject to extradition to that State.

2. Foreign nationals and stateless persons who have committed a crime outside Turkmenistan and are situated in the territory of Turkmenistan may be extradited to a foreign State for criminal prosecution or to serve a sentence in accordance with the international treaties to which Turkmenistan is a party and agreements, conventions and other international legal documents to which Turkmenistan has acceded.

Persons are extradited on the basis of the aforementioned Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, of 22 January 1993, and Turkmenistan's bilateral treaties with Georgia, the Republic of Uzbekistan and Armenia.

Citizens of Turkmenistan may not be extradited to another State. This provision is laid down not only in the Minsk Convention, but also, first and foremost, in article 7 of Turkmenistan's basic law — the Constitution of Turkmenistan, adopted on 18 May 1992 — and was reflected in our country's criminal legislation. Accordingly, article 9 of the Criminal Code of Turkmenistan, approved on 12 June 1997, provides that citizens of Turkmenistan who have committed a crime in the territory of a foreign State are not subject to extradition to that State.

At the current time, the question of acceding to international treaties on combating terrorism is being considered, and a draft law of Turkmenistan on combating terrorism is being drawn up.

In accordance with article 56 of the Convention, extradition for criminal prosecution is carried out for acts which, under the laws of the requesting and requested Contracting Parties, are punishable and for the commission of which punishment is provided for in the form of imprisonment for not less than one year or a more severe punishment. Extradition for the execution of a sentence is carried out

for acts which, in accordance with the legislation of the requesting and requested Contracting Parties, are punishable and for the commission of which the person in question has been sentenced to imprisonment for no less than six months or a more severe punishment.

**Paragraph 4**

Turkmenistan plays an active role at the national, subregional, regional and international levels in efforts to strengthen the worldwide response to the challenges of and threats to international security, particularly by participating in the work of international organizations such as the United Nations, the Organization for Security and Cooperation in Europe (OSCE) and others, and also by supporting international agreements such as the Decision on Combating Terrorism and the Bucharest Plan of Action for Combating Terrorism of 4 December 2001 (within the framework of OSCE), the Declaration of the Bishkek International Conference on Enhancing Security and Stability in Central Asia: Strengthening Bilateral Efforts to Counteract Terrorism of 14 December 2001 (within the framework of OSCE), the Organization for Security and Cooperation in Europe Charter on Preventing and Combating Terrorism of 7 December 2002, and also the Kabul Declaration on Good-Neighbourly Relations of 22 December 2002 and others.

United Nations S/2003/130

Security Council

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## Letter dated 31 January 2003 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1244 (1999), I have the honour to transmit to you herewith the report on the international security presence in Kosovo covering the period from 1 to 31 December 2002 (see annex).

I should be grateful if you would arrange to bring this report to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

03-23341 (E) 310103 310103

## Annex

[Original: English]

### Monthly report to the United Nations on KFOR operations

1. Over the reporting period (1 to 31 December 2002) there were almost 28,000 Kosovo Force (KFOR) troops in theatre.

2. Despite some violent incidents and an increase in political tension, the overall situation in Kosovo during the month of December remained substantially stable.

#### Security

3. In two separate incidents of fatal injuries due to explosions, KFOR provided assistance for explosive ordnance disposal and medical aid. On 5 December, two ethnic Albanians were killed close to the border with Albania in Djakovica as a result of an explosion in a marked minefield. On 6 December, two children died and three were wounded by the explosion of a hand grenade they were playing with.

4. During the evening of 13 December, a car-bomb exploded in Pristina injuring 32 people and causing structural damage to buildings. This incident took place one day before the visit of the delegation of the Security Council.

5. KFOR continued to carry out Kosovo-wide search operations in its campaign against weapons-smuggling and activities of ethnic Albanian armed groups. Weapons and ammunition were seized daily. Items confiscated during the month included 67 assorted weapons, 108 grenades and mines, and 2,350 rounds of ammunition.

6. On 10 December, KFOR lifted the curfew over the "Confidence Zone" covering the east bridge, the west bridge and the footbridge in Mitrovica.

#### Border/boundary security

7. KFOR continued to monitor border and boundary security during the reporting period, and prevented illegal crossings. The number of incidents involving attempts to cross borders decreased sharply compared to the previous month, due in part to the worsening weather conditions. KFOR intercepted a total of 29 attempts to cross borders illegally and detained 28 people who were subsequently handed over to United Nations Interim Administration Mission in Kosovo (UNMIK) police.

#### Cooperation and compliance by the parties

8. Federal Republic of Yugoslavia security forces continued to remain in compliance with the terms and conditions of the Military Technical Agreement.

9. Six cases of non-compliance within the Kosovo Protection Corps were reported during the month of December. Forty-eight cases remain open.

10. KFOR railway engineers provided assistance to the railways of Kosovo to enable the opening of train service on 12 December, creating a daily link from the ethnic Serb enclaves in northern Kosovo to Serbia.

**Cooperation with international organizations**

11. On 31 December, after seven people escaped from the UNMIK prison in Dubrava, KFOR intercepted the escaped prisoners and handed them over to UNMIK Police.

12. On 23 December, KFOR and UNMIK signed a Memorandum of Understanding (MoU) covering the loaning of weapons to the Kosovo Police Service (KPS). This MoU establishes the conditions under which KFOR may loan a specified number of confiscated weapons to the KPS border security units for use at designated points of crossing and under UNMIK Police supervision.

**Outlook**

13. The overall security situation in Kosovo remains stable, despite continued localized acts of vandalism and intimidation. The increased presence of UNMIK Police and KPS has allowed KFOR to reduce its engagement in static security duties.

United Nations S/2003/131

Security Council

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31 January 2003
English
Original: Arabic

## Letter dated 31 January 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I should like to transmit to you herewith a letter dated 30 January 2003 from Mr. Naji Sabri, Minister for Foreign Affairs of the Republic of Iraq, containing Iraq's comments on the statement of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) delivered before the Security Council on 27 January 2003.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Ambassador
Permanent Representative

03-23399 (E) 040203 040203

## Annex to the letter dated 31 January 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

Owing to the unlawful conditions imposed by the United States on the exercise by States Members of the United Nations of their right, stipulated in Articles 31 and 32 of the Charter, to participate in the discussion by the Security Council of questions which affect their interests or to which they are a party, and inasmuch as letters constitute the basic means of presenting our view to the Council, I address to you this letter containing our comments on the statement delivered by Mr. Hans Blix, Executive Chairman of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC), at the official meeting of the Security Council held on 27 January 2003 (S/PV.4692).

Before presenting our detailed comments on a number of paragraphs contained in the UNMOVIC statement, I should like to point out that the report was stinting in its account of Iraq's cooperation with UNMOVIC, but elaborate in its review of negative hypotheses and unsubstantiated allegations regarding Iraq's record in fulfilling its disarmament commitments. A number of examples follow:

1. The UNMOVIC statement indicates that "Iraq appears not to have come to a genuine acceptance — not even today — of the disarmament".

This accusation is untrue and contradicts the actual facts known to the competent officials, important quarters and world public opinion media. Iraq has made every effort required to implement Security Council resolution 1441 (2002), in addition to what had been achieved previously in the field of disarmament and monitoring thanks to Iraq's cooperation. This was recognized by the now disbanded United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA). Indeed, the Agency announced that it had achieved 100 per cent disarmament, and Mr. Rolf Ekeus, the former Executive Chairman of UNSCOM, announced in 1993 that he had achieved 95 per cent of the task of disarmament. It is deplorable that such a judgement should be passed after Iraq has shown two months of unparalleled complete cooperation with UNMOVIC and IAEA in order to comply with resolution 1441 (2002).

2. The UNMOVIC statement contains the following remark: "Iraq claims — with little evidence — that it destroyed all biological weapons unilaterally in 1991".

What Iraq has declared is not a mere allegation, for it supported its declaration concerning the unilateral destruction of biological weapons with irrefutable evidence. However, the then Executive Chairman of the now defunct UNSCOM, Mr. Butler, ignored and disregarded that evidence for reasons connected with his biased political stance against Iraq, a stance well known to the Secretariat of the United Nations, the Security Council and the international media. What is more, all the inspections and ongoing monitoring activities in the biological sphere that continued from March 1991 to the end of December 1998 and included 1782 inspection operations in addition to biological monitoring did not show any indication of the existence of proscribed biological materials or activities in Iraq. Were not the inspection and monitoring operations performed by UNSCOM and UNMOVIC starting in 1991 sufficient to demonstrate the truth of the Iraqi declarations and the absence of any indication to the contrary?

3. With regard to the two concepts of cooperation, i.e. relating "to both substance and process", I should like to point out that the literature on disarmament in respect of weapons of mass destruction does not refer to any such distinction. Perhaps the distinction was devised out of a wish on the part of some elements of UNMOVIC to hide the facts about Iraq's cooperation from the Security Council and the international community. Iraq's positive attitude of compliance and unlimited cooperation with the UNMOVIC and IAEA teams and inspectors did not merely involve "opening doors", as claimed by those who do not want the world to be aware of that cooperation, but went beyond that and included providing information, answering questions, submitting documents and samples, facilitating meetings and ensuring that the visits were marked by ease and convenience, despite the fact that their number and the related procedures exceeded all those agreed upon during the earlier period, from 1991 to 1998.

4. On the subject of the U-2 plane, it was indicated in the UNMOVIC statement that Iraq had refused to guarantee its safety and wanted to impose a number of conditions. Yet this does not constitute a subtle shift in Iraq's position. Iraq stated that it was not in a position to guarantee the safety of the U-2 aircraft owing to the daily armed violations of Iraq's airspace, territory and sovereignty carried out by United States and British warplanes in the unlawful areas referred to as "no-fly zones", their attacks on the cities and villages of Iraq and its citizens in those zones and the performance by Iraqi air defences of their rightful duty of self-defence and resistance to those hostile aircraft. For that reason Iraq proposed that notice of every flight should be given in advance, which is the procedure that was followed in the past; that the hostile and warlike United States and British operations of violating Iraqi airspace should be halted during the U-2 sorties; and, furthermore, that there should not be any aggression against radar installations at Iraqi civil airports in Basra and Mosul. UNMOVIC was in agreement regarding the first point, i.e. prior notice, and Iraq did not insist on the third point, relating to radar equipment. On the second point, however, UNMOVIC replied that resolution 1441 (2002) provides that Iraq is responsible for the safety of the U-2 aircraft under all circumstances. Iraq answered that the same resolution required all States to respect Iraq's sovereignty, independence and territorial integrity. In other words, the resolution prohibits the United States and Great Britain from continuing their hostile air operations in the so-called "no-fly zones" and they are required to comply with it just as Iraq is required to comply with such resolutions. Yet UNMOVIC informed us that it could not make such a request of the United States and Great Britain.

5. The UNMOVIC statement expresses the Commission's annoyance at civilian demonstrations and protests in the media over questions of an intelligence character that were posed by some inspectors and over the inspection of a Baghdad mosque. The UNMOVIC statement exaggerates, making an inaccurate political judgement. It has no evidence on which to base its statement that "demonstrations and outbursts of this kind are unlikely to occur in Iraq without initiative or encouragement from the authorities".

The inspection of the mosque in Baghdad on 19 January 2003 is referred to in the UNMOVIC statement as "a sightseeing excursion by five inspectors", but it was not that. All available indications point to the fact that it was an inspection operation conducted outside the mechanisms that have been agreed upon and followed, which involve accompaniment of the team of inspectors by the Iraqi side. The inspectors entered the mosque area in a vehicle bearing UNMOVIC insignia, presented

themselves as UNMOVIC inspectors. They asked why the Government of Iraq was building so many mosques and whether the mosque had a basement, as well as questions about the number of persons praying there, the proportion of young men among them and other questions having nothing whatsoever to do with sightseeing.

6. The UNMOVIC statement contained the remark that substantive cooperation required that Iraq should declare all programmes of weapons of mass destruction.

The least one can say about this insinuation is that it ignores the facts. Iraq has declared all its proscribed programmes and taken the necessary steps to eliminate them. What remains is not programmes of weapons of mass destruction but rather questions, mere questions about earlier programmes. The allegation that Iraq still has programmes of weapons of mass destruction is a shameful, politically motivated lie spread by the United States and its vassals for the purpose of keeping the disarmament file open-ended, maintaining the oppressive sanctions against Iraq and providing cover for aggression against it. If the American Administration had any real, convincing evidence to contradict the Iraqi declarations that Iraq is free of programmes of weapons of mass destruction, it would have presented it. Over the past two months the inspectors have carried out more than 518 tours of inspection, which began on 27 November 2002, and they have not found anything to contradict the Iraqi declarations or support the allegations of the American Administration and Mr. Tony Blair, the British Prime Minister.

7. The UNMOVIC statement was critical of Iraq for not having tried to respond to and submit supporting evidence regarding the outstanding disarmament issues in preparing its declaration of 7 December 2002.

Here, too, the statement tries to avoid the facts. In 1998 Iraq challenged the reliability and significance of the so-called "outstanding disarmament issues", which the Executive Chairman of the Special Commission, Mr. Butler, had inflated and exaggerated for obvious political reasons. The Security Council, at the Secretary-General's initiative, agreed to set a date for a comprehensive review of Iraq's fulfilment of its disarmament obligations in order to determine the status and significance of outstanding issues. The United States and the United Kingdom thwarted this effort and also put an end to the Special Commission by launching aggression against Iraq in December 1998. Following this aggression, the Security Council entrusted a panel, under the chairmanship of then Ambassador Amorim, to assess the disarmament situation in Iraq. In his report Ambassador Amorim stated that the bulk of Iraq's proscribed weapon programmes had been eliminated and referred to a point of impasse in the further investigation of the issues that the Special Commission considered to be outstanding, in particular because some certainty was inevitable in any country-wide technical verification process. Ambassador Amorim recommended the establishment of a reinforced monitoring system capable of dealing with remaining disarmament issues.

In paragraph 2 of its resolution 1284 (1999), the Security Council adopted Ambassador Amorim's recommendation that outstanding disarmament issues should be addressed in the framework of a reinforced system of ongoing monitoring and verification. UNMOVIC also adopted this recommendation and incorporated it into its organizational plan, which it submitted to the Security Council on 6 April 2000 (S/2000/292).

The foregoing shows that the so-called "outstanding disarmament issues" are not outstanding issues at all or are no longer such because the materials which the Commission alleged had not been destroyed are no longer viable or represent a minute portion of what was verified (1 to 3 per cent) or because the search for them has reached the point of diminishing returns. Iraq tried to discuss these issues at the discussion meetings held with representatives of the United Nations Secretariat on 2 May 2002 in New York and on 4 August 2002 in Vienna, and the competent Iraqi services tried to discuss them with the Executive Chairman of UNMOVIC during his visit to Iraq, on all of which occasions the Iraqi requests were met with refusals.

8. According to the UNMOVIC statement it is regrettable that our letter dated 24 January 2003 to the Secretary-General of the United Nations did not lead to the resolution of the outstanding issues.

A perusal of this letter shows that it refutes the statement, as it mentions that the responses to all the so-called outstanding issues are contained in Iraq's complete declaration and also indicates the page numbers where the responses may be found.

9. The UNMOVIC statement casts doubt on Iraq's declaration of 7 December 2002, which is supported by documents and evidence, and indicates that the Commission is in possession of information that contradicts Iraq's declaration, especially with regard to VX and anthrax.

How can Iraq dispel the doubts that the UNMOVIC statement raises about its declaration if it is not permitted access to this information?

In its complete declaration, Iraq provides evidence of what it is putting forward in this connection, and it is for UNMOVIC to refute this evidence. However, we are convinced that neither the Commission nor the Government of the United States holds any evidence that contradicts the Iraqi declaration.

10. The assertion in the UNMOVIC statement that there are discrepancies between the Iraqi declaration and the Air Force document is untrue. The apparent discrepancies referred to do not relate to the material balance, as all evidence brought forth in support of all material balances through the end of 1990 were handed over to the former UNSCOM, and the Iraqi side will clarify this point with the UNMOVIC experts.

11. Concerning the recent find of empty 122-millimetre warheads, Iraq proposed that a joint test be carried out to determine whether the warheads' engines are operational. We are convinced that the test will show that their engines have not been operational for a long time owing to the "seepage" of double-base propellant (migration of the nitroglycerine towards the surface). This test will also prove that all the above-mentioned warheads are unusable. However, we are still waiting for these warheads, which the UNMOVIC inspector asked about, to be tested. We have conducted our own inquiry and have not found any other 122-millimetre warheads, or any other banned material, to date. The inquiry is being conducted in other stores throughout the Iraqi territory, and the Iraqi authorities will inform UNMOVIC of their findings as soon as they are in possession of complete information.

In its statement UNMOVIC asserts that the store in which the warheads was found was of relatively recent construction, which is untrue. The store was built 20 or so years ago, and was to be used as a hangar, not a store. It was not destroyed

during the 1991 aggression, and it has been assigned to the Mustafa project since the 1980s. The warheads found there had not been moved for 12 years.

12. The issue of the 650 kilograms of bacterial growth media, which is addressed in the report that Iraq submitted to Ambassador Amorim's Commission and which is not mentioned in Iraq's declaration of 7 December 2002, involved a measure to correct an error concerning Letter of Credit No. 88/4/96, explanations of which we will provide to UNMOVIC in a separate letter.

13. The allegation that Iraq did not provide information concerning the alleged use of a number of SCUD missiles as targets in the development of an anti-ballistic missile defence system during the 1980s is also untrue. Iraq submitted original documents, approved by the former UNSCOM, concerning the use of those missiles. Iraq also furnished a full exchange of letters between the Military Industrialization Corporation and the Ministry of Defence concerning those tests and the dates on which they took place. Finally, the Iraqi authorities held intensive technical discussions lasting several hours with the former UNSCOM, in the course of which they replied to all the Commission's questions concerning the research conducted under the project in question. This subject has never been revisited.

14. Concerning the 3,000 pages of Arabic documents found on 6 January 2003 in the apartment of an Iraqi physicist, Mr. Falleh Hamza, the UNMOVIC statement contains inaccurate and unjustified conclusions and suppositions.

The box that was apparently the object of the inspection was a large case containing approximately 200 kg of documents belonging to Mr. Faleh Hamza, which consisted of magazines and personal papers of the type commonly kept by many scientists. These papers were analysed for hours by the inspectors, who confiscated 3,000 pages.

Mr. Faleh Hamza, who had fortunately made photocopies of his documents before handing them over to the inspectors, said that the documents in question included:

- A copy of reports relating to his participation as a delegate in various conferences and scientific meetings from 1984 to 1989;
- Drafts and copies of reports and research papers to which he had contributed or was alleged to have personally contributed;
- Documents on research topics from the period since 1991, all of which were declared in Iraq's full declaration of 7 December 2002;
- Other documents of a personal nature;
- Reports issued by the Iraqi Atomic Energy Commission during the period 1985-1990, a time in which Mr. Hamza and others had participated in a number of research studies and projects, including a basic laser radioisotope separation project.

This research project, about which UNMOVIC had raised questions and which had been used in United States propaganda to paint an inaccurate picture of Iraq's position and cooperation, is specifically mentioned in the second part of pages 1 to 30 of the full declaration submitted by Iraq on 7 December 2002, in which it is stated, on page 29, that Iraq's scientific and technological infrastructure is incapable of meeting such a challenge and that, consequently, the research in question is of

purely academic interest and thus is not included in the classified reports prepared by groups working on separating radioisotopes, all of which are listed in the full and complete declaration and are in the possession of IAEA.

In 1994 IAEA requested the holding of a meeting devoted to laser separation of radioisotopes; at the end of that meeting the Iraqi side delivered a copy of these studies to Mr. Gary Di Leone, head of the IAEA Task Force in Iraq. IAEA did not ask for any further details concerning this document, and its surrender is mentioned in IAEA report No. 26 of September 1994.

We do not understand why UNMOVIC goes so far in its report as to say that this is not an isolated case and that the presence of this document in Mr. Hamza's home is an act of deliberate deceit that may be only the "tip of the iceberg", indicating a consistent practice of hiding documents in private homes. UNMOVIC ought to have looked into the matter and verified that Iraq had in fact turned this document over to IAEA in 1994.

15. In its statement UNMOVIC said that it was concerned by the list submitted by Iraq of persons who had participated in previous programmes, which contained some 400 names. UNMOVIC compared this figure with the more than 3,500 persons who had worked on these programmes or had met with the United Nations Special Commission (UNSCOM) during the 1990s or whose existence had been revealed by various documents and other sources.

The names of the 400 scientists that were transmitted to UNMOVIC are consistent with the organizational chart of staff participating in previous programmes which UNMOVIC had requested from Iraq. Moreover, the list of persons who had met with UNSCOM also contained the names of drivers, porters, gardeners, guards, office staff and other individuals who were neither scientists nor technicians, were not shown on the organizational chart requested and had nothing to do with earlier programmes. Iraq has never turned down a request for a meeting with any of these individuals.

The foregoing observations relating to the statement by UNMOVIC confirm that the Commission, which is a technical body with very specific tasks in the area of disarmament and monitoring, should display greater transparency, objectivity and impartiality and should rely on its technical discussions with the Iraqi side so as to dispel any doubts it might have concerning a problem encountered in the course of its work. In addition, UNMOVIC should endeavour not to draw hasty conclusions that might soon prove to be inaccurate.

We should like to take this opportunity to reaffirm our strong commitment to continuing our cooperation with UNMOVIC and IAEA so that they may carry out the tasks entrusted to them under the resolutions of the Security Council and the Charter of the United Nations, thereby confirming that Iraq does not possess any weapons of mass destruction. This process is indispensable if the Security Council is to fulfil its obligations under these resolutions, namely to lift the criminal and immoral embargo imposed against the Iraqi people for over 12 years and to ensure, in accordance with the commitments it has undertaken in the relevant resolutions, including resolution 1441 (2001), respect for Iraq's sovereignty and territorial integrity. I should also like to draw the attention of the Secretariat of the United Nations and of the Security Council to the attempts which the United States of America and the United Kingdom have constantly made since 1991 to exert pressure

on the inspectors in their work for political purposes that are hostile to Iraq, thereby undermining the credibility of the United Nations and its disarmament and non-proliferation programme.

(*Signed*) Naji **Sabri**
Minister for Foreign Affairs of the Republic of Iraq

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## Letter dated 31 January 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I should like to transmit to you herewith a letter dated 30 January 2003 from Mr. Naji Sabri, Minister for Foreign Affairs of the Republic of Iraq, concerning the intention of the United States of America to present false evidence to the Security Council on 5 February 2003.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Ambassador
Permanent Representative

03-23352 (E) 030203 030203

## Annex to the letter dated 31 January 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

The Government of the United States has announced that it has called for a meeting of the Security Council on 5 February 2003 at which United States Secretary of State Colin Powell will present what has been dubbed "evidence of Iraq's possession of weapons of mass destruction".

This play-acting has become transparent after the submission by the United States of more than one report filled with allegations and accusations devoid of any evidence to substantiate them, such as the report annexed to the speech of United States President Bush before the General Assembly on 12 September 2002, entitled "A decade of deception and defiance", and the report of the Central Intelligence Agency (CIA) of October 2002, entitled "Iraq's weapons of mass destruction programs". In both those reports, the Bush Administration accused Iraq of developing weapons of mass destruction at more than 50 sites. British Prime Minister Tony Blair has played a supporting role in this regard, publishing a similar report in October 2002 in which he claimed that there existed specific sites in Iraq at which weapons of mass destruction were being developed.

After Iraq accepted the return of the inspectors on 16 September 2002 and agreed to deal with Security Council resolution 1441 (2002), the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) were requested to accord priority, in resuming inspections, to sites alleged by the United States and Britain to be developing weapons of mass destruction programmes.

Inspection work began on 27 November 2002. After two months of intensive inspections involving the use of state-of-the-art equipment for detecting any proscribed nuclear, chemical or biological activity and the analysis of water, soil and air samples all over Iraq during 518 tours of inspection comprising all the sites that were the object of President Bush's and Prime Minister Blair's accusations, as well as numerous other sites, including residential quarters in Iraqi cities, the report of Messrs. Blix and ElBaradei, submitted to the Security Council on 27 January 2003, substantiated Iraq's declarations and consequently confirmed that the reports of President Bush and Prime Minister Blair were devoid of truth and had been drafted in order to distort the picture of Iraq and create pretexts for aggression against Iraq and against the region as a whole.

Perhaps this fact explains the urgent requests addressed to States by Messrs. Blix and ElBaradei to provide UNMOVIC and IAEA with verifiable evidence of any proscribed activities, substances or materials in Iraq and the insistence of States members of the Security Council that those States which are alleging that Iraq is developing weapons of mass destruction submit their evidence to UNMOVIC and IAEA pursuant to paragraph 10 of resolution 1441 (2002), which reads, "Requests all Member States to give full support to UNMOVIC and the IAEA in the discharge of their mandates, including by providing any information related to prohibited programmes or other aspects of their mandates ...".

On the basis of the above text, contained in the Security Council resolution, we request the Government of the United States, through you, to submit immediately its alleged evidence to the technical committee entrusted by the United Nations with

verifying such allegations, namely UNMOVIC (if they relate to proscribed activities in the chemical, biological or missile fields) or IAEA (if they relate to proscribed activities in the nuclear field), so as to enable the two organizations to begin their investigations immediately and inform the Security Council and the international community of the extent to which those allegations are correct.

In this connection, we caution against using the General Assembly or the Security Council as forums for spreading false accusations and fabricated evidence in open disregard for the mechanisms prescribed by the Security Council resolutions, the most recent being resolution 1441 (2002). Indeed, the United States and Britain can request UNMOVIC and IAEA to verify those allegations and report the related findings to the Security Council under paragraph 10 of resolution 1441 (2002).

We should also like to draw the attention of the members of the Security Council and indeed all States Members of the United Nations to the dangers of the use by the United States of its superior capacities in the technologies of spying, fabrication, perfidy and deception to plant perjurious evidence and present it to the Security Council as fact in order to create pretexts for its aggressiveness and its feverish desire to wage war and aggression and wreak destruction on other peoples.

(*Signed*) Naji **Sabri**
Minister for Foreign Affairs

United Nations S/2003/133

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**Identical letters dated 30 January 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council**

On instructions from my Government, I have the honour to transmit to you herewith the daily report on the activities carried out by the inspection teams of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in Iraq on 30 January 2003.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Permanent Representative

03-23548 (E) 180203 190203

## Annex to the identical letters dated 30 January 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

### Activities of the IAEA and UNMOVIC inspection teams in Iraq on 30 January 2003

1. Lt. General Amer Al-Sa'adi, Adviser to the Presidential Office, today addressed a letter to Mr. Hans Blix, Executive Chairman of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and Mr. Mohamed ElBaradei, Director General of the International Atomic Energy Agency (IAEA), inviting them to visit Iraq before 10 February 2003 in order to discuss a number of questions related to the strengthening of cooperation and transparency with UNMOVIC and IAEA, and to consider jointly ways of verifying the disarmament issues that were raised at the meeting of the Security Council held on 27 January 2003. The letter also contained a proposal for considering ways of improving the mechanism for cooperation and consultation in order to re-establish the strengthened monitoring regime.

## II. IAEA inspection regime

1. A first group, composed of three inspectors, left the Canal Hotel in Baghdad at 9 a.m. and arrived at Nahrawan, 40 kilometres east of Baghdad. The group performed radiation surveys of the complex of tanneries and brickworks and of a military unit on the same site. The mission lasted approximately two hours, after which the group returned to the Canal Hotel.

2. A second group, composed of three inspectors, left the Canal Hotel in Baghdad at 9.15 a.m. and arrived at the precision casting site of the 17 Nisan Company, which belongs to the Ministry of Industry and Minerals. The group met the site's director and questioned him about the company's organizational structure, the end-users of its products, the number of employees and the number holding advanced degrees. Next, the group inspected the production and maintenance workshops and the warehouses. It also verified declarations concerning the site and photographed the scrap metal used in production. Using portable equipment, the group also performed radiation surveys of the company in order to detect any radiation alleged to exist. The group finished its mission and returned to the Canal Hotel.

## III. UNMOVIC inspection team (biological)

1. A first group, composed of seven inspectors, left the Canal Hotel in Baghdad at 8.30 a.m. and arrived at the Awali distillery, one of the private-sector companies located in Khan Bani Sa'd, 30 kilometres east of Baghdad. The group met the factory's director and questioned him about the number of employees and engineers and the types of tests performed in the quality control laboratory. The group also inspected tagged equipment. The group completed its mission, which lasted approximately 1.5 hours, and returned to the Canal Hotel.

2. A second group, composed of seven inspectors, left the Canal Hotel in Baghdad at 8.45 a.m. and arrived at the Tharthar distillery, another private company located in Khan Bani Sa'd, 30 kilometres east of Baghdad. The group inspected all of the company's facilities and asked about its activities and production. The group took a sample of the molasses separation cone. The group completed its mission, which lasted approximately 1.5 hours, and returned to the Canal Hotel.

3. A third group, composed of four inspectors, left the Canal Hotel in Baghdad at 9 a.m. and arrived at the Central Health Laboratory, which belongs to the Ministry of Health and is located at Andalus Square in Baghdad. The group inspected the immunodeficiency laboratories located in the central laboratory building. The group asked about the existence of similar laboratories in the governorates of Iraq, the number of employees holding advanced degrees, whether the company had ties to the World Health Organization and whether there were students who were studying or being trained in these laboratories; it then enquired about the testing methods and types of equipment used and asked when these laboratories had been separated from the Central Health Laboratory. The group completed its mission, which lasted approximately one hour, and returned to the Canal Hotel.

## IV. UNMOVIC inspection team (chemical)

The team, composed of 16 inspectors, took off from the Rashid airfield in two helicopters and arrived at the State Company for Petrochemical Industries, which belongs to the Ministry of Industry and Minerals and is located in Khawr al-Zubayr, in Basra governorate. The team met the establishment's deputy director and asked him questions about the ethylene plant. Next, the team inspected the plant and its production units, asking questions about production and the methods used. The team took a sample of an ethylene production unit. The team completed its mission, which lasted approximately four hours, and returned to the Rashid airfield by helicopter.

## V. Interview

UNMOVIC asked to meet two Iraqi scientists and the National Monitoring Directorate informed them of the place and time of the meeting. The two scientists arrived and the Directorate encouraged them to hold the meeting, and they were not prevented from doing so. The first scientist asked to be accompanied by one of his colleagues who works with him in the Ministry of Industry and Minerals so that he could witness the interview; the second scientist requested the presence of two persons belonging to the National Monitoring Directorate so that they could also witness the meeting. UNMOVIC refused to hold the meeting.

United Nations S/2003/134

# Security Council

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3 February 2003
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## Letter dated 31 January 2003 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to draw the Security Council's attention to the concentration of forces of the Rwandan Patriotic Army (APR) observed in Kanyabayonga, a Congolese town in Nord-Kivu Province located near the Rwandan and Ugandan borders.

This town may, in the next few hours, become the theatre of another confrontation between troops from the Rwandan and Ugandan armies in Congolese territory.

My Government urgently requests the Security Council to take all steps in order to prevent a fourth war in the war of aggression between the occupying forces of Rwanda and Uganda, countries that have attacked the Democratic Republic of the Congo.

The Governments of those two countries are using all sorts of ploys so as not to consider themselves bound by the agreements that they, nevertheless, freely signed with my country, namely, with respect to Rwanda, the Pretoria Peace Agreement of 30 July 2002 (S/2002/914, annex), and, for Uganda, the Luanda Agreement of 6 September 2002.

My Government would also wish that the principal body of the United Nations responsible for international peace and security could prevent another humanitarian tragedy in the Congolese regions under occupation, which have suffered enormously, particularly at the beginning of this year, from the criminal activities of the regular occupation armies as well as those of the armed groups linked to them. The recent intolerable, repulsive and unacceptable acts, the massacres and the systematic violations of human rights perpetrated by the Movement for the Liberation of the Congo (MLC) and the Congolese Rally for Democracy (RCD) national troops in Ituri are for us a sad and painful reminder of this.

My Government considers that the Security Council would gain credibility by ensuring strict respect on the part of the aggressor countries, Rwanda and Uganda, of all the relevant resolutions of the Council on the situation in the Democratic Republic of the Congo and, if need be, by instituting against them the coercive measures provided for under Chapter VII of the Charter of the United Nations.

03-23390 (E) 030203 030203

I should be grateful if you would have this letter circulated as a document of the Security Council.

(*Signed*) Atoki **Ileka**
Ambassador
Permanent Representative

United Nations S/2003/135

# Security Council

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Original: Arabic

## Letter dated 31 January 2003 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General

I have the honour to refer to your report concerning the situation in the Central African Republic (S/2003/5) which clearly indicates the importance placed on the establishment of security and stability in that State and in other States of southern Africa that are beset by war and destruction.

Although the Libyan Arab Jamahiriya appreciates the report, it regrets that it makes no reference to the efforts that have been made since 1996 by the Community of Sahel-Saharan States (CEN-SAD) to maintain peace and security in the Central African Republic or to the fact that the Community deployed peacekeeping forces in accordance with the resolutions of the emergency mini-summit of the Community held in Khartoum on 3 December 2001 which had a positive impact on the stability of those countries and resulted in the transferral of that function to the joint peacekeeping forces of the Central African Economic and Monetary Community (CEMAC) on 19 December 2002.

The annex to this letter contains information concerning the efforts of CEN-SAD relating to the Central African Republic.

I should be grateful if you would have this letter and its annex distributed as a document of the Security Council.

(*Signed*) Ahmed A. **Own**
Chargé d'affaires a.i.

03-23492 (E) 050203 060203

## Annex to the letter dated 31 January 2003 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General

## Efforts of the African Union and the Community of Sahel-Saharan States to resolve the crisis in the Central African Republic

Political developments have taken place in the Central African Republic since 1996; following the attempted coups d'état of 28 May 2001 and 3 November 2001, the Organization of African Unity (OAU) and the Community of Sahel-Saharan States (CEN-SAD) has endeavoured to restore peace and stability to the Central African Republic. A review of those efforts is set out below.

At its 74th ordinary session held in Lusaka from 6 to 8 July 2001, the OAU Council of Ministers condemned the attempted coup d'état of 28 June 2001 and commended CEN-SAD on its efforts to support the constitutional institutions, to end the fighting and to ensure security in the Central African Republic.

The Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution in Africa, at its 78th ordinary session at ambassador level, meeting in Addis Ababa on 27 November 2001, studied the situation in the Central African Republic, called on the leaders of the Organization to continue their efforts to assist the parties in the Central African Republic to overcome their differences through dialogue and requested the Secretary-General to monitor the situation and to take appropriate steps to achieve that objective.

The emergency mini-summit met in Khartoum on 3 December 2001, attended by President Frederick Chiluba, current Chairman of OAU, President Idriss Deby, President Ange-Félix Patassé and Major-General Abu Bakr Yunus. The Special Representative of the Secretary-General of the United Nations and the Secretary-General of CEN-SAD also took part in the mini-summit. The mini-summit decided to establish a force to keep the peace in Central Africa under the auspices of President Omer Ahmed Al-Bashir, current Chairman of CEN-SAD, and of Colonel Muammar Qaddafi in his capacity as a sponsor of the peace process within the Community. It also decided to establish a political committee of the ministers for foreign affairs of the Sudan, Chad, the Libyan Arab Jamahiriya, Burkina Faso and Gabon, the Secretary-General of OAU, the Secretary-General of CEN-SAD and a representative of the Secretary-General of the United Nations.

The Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution convened an emergency session at ministerial level in Tripoli on 26 January 2002 to discuss the situation in the Central African Republic. A representative of the Secretary-General of the United Nations and of CEN-SAD took part in the meetings at that session. The Central Organ endorsed the decision of the Khartoum summit to deploy peacekeeping forces in the Central African Republic in compliance with the decisions of OAU concerning the non-recognition of unconstitutional changes of government in Africa, commended the efforts of the African States to restore constitutional order and support the legitimate Government of the Central African Republic and its institutions, at the Government's request, and called on other African States to provide similar support to the legitimate Government of the Central African Republic.

A meeting held in Bangui on 19 December 2002 attended by President Patassé, the Secretary of the People's General Committee for African Unity, the Chairman of the Executive Committee of CEN-SAD, the Minister for Foreign Affairs of Gabon, the Commander of the CEN-SAD forces, and the Commander of the forces of the Central African Economic and Monetary Community (CEMAC) to discuss the necessary measures and preparations for completing the withdrawal and ensuring the security of the situation, by agreement with the representative of CEMAC and the CEMAC forces. It was agreed during this meeting to withdraw the CEN-SAD forces.

The Secretary of the People's General Committee for African Unity and President of the Executive Council of the Community of Sahel-Saharan States sent a letter to the Secretary-General of the United Nations dated 2 January 2003 concerning the withdrawal of the CEN-SAD forces from the Central African Republic and the transferral of their functions to the CEMAC forces in accordance with the agreement signed between the interested parties.

United Nations S/2003/136

# Security Council

Distr.: General
3 February 2003
English
Original: French

## Letter dated 3 February 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Rwanda to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith the press release issued by the Government of the Rwandese Republic in response to press release SPKM 06/2003 issued by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) on 31 January 2003.

I should be grateful if you would have this letter circulated as a Security Council document.

(*Signed*) Augustin **Muvunyi**
Chargé d'affaires a.i.

03-23462 (E) 030203 030203

## Annex to the letter dated 3 February 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Rwanda to the United Nations addressed to the President of the Security Council

**Ministry of Foreign Affairs and Regional Cooperation**

### Press release

In the light of the allegations contained in press release SPKM 06/2003 issued by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) on 31 January 2003 (see appendix) concerning so-called "disturbing reports of troop movements in the east and north-east of the Democratic Republic of the Congo", the Government of the Rwandese Republic would like to state the following:

The Government of the Rwandese Republic categorically rejects the reports of the presence of Rwandan troops in the territory of the Democratic Republic of the Congo contained in the aforementioned press release, and notes that it withdrew all its troops in October 2002, a withdrawal that was confirmed in the release issued by MONUC itself.

The Government of the Rwandese Republic is concerned at the dissemination of unverified, biased and alarmist reports by MONUC, when its primary duty in such circumstances should be to verify any so-called "disturbing reports". This approach seriously jeopardizes the role and credibility of MONUC.

The Government of the Rwandese Republic notes that the procedure established by the signatories to the Lusaka peace accords (S/1999/815, annex) is that MONUC and the Joint Military Commission verify information provided to them by the signatories and report back.

The Rwandan Government takes this opportunity to demand the sources of the information and a related report.

The Government of the Rwandese Republic condemns any attempt to torpedo the commitments undertaken by the parties involved in the peace process in the Democratic Republic of the Congo, and reiterates that it is fully disposed to working towards peace in the subregion.

## Appendix

### Press release SPKM 06/2003 issued by the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC)

**(Kinshasa, 31 January 2003)**

**Disturbing reports on troop movements in the east and north-east of the Democratic Republic of the Congo**

MONUC has received disturbing reports of troop movements and of the following developments:

- Troop movements and an imminent attack by the Rassemblement congolais pour la démocratie — Goma (RCD/G) against Kanyabayonga, Lubero territory in Nord-Kivu, under the control of the Rassemblement congolais pour la démocratie-Kisangani-mouvement de libération (RCD/K-ML).
- Presence of four battalions of the Congolese armed forces in Beni, in RCD/K-ML territory.
- Presence of Rwandan troops in Ituri.
- Movement of Ugandan troops — two Uganda People's Defence Forces (UPDF) brigades — towards Mahagi, to the north of Bunia, near the Ugandan border.
- Presence of soldiers in Rwandan uniform in the Kivu districts.

The Special Representative of the Secretary-General of the United Nations for the Democratic Republic of the Congo, Mr. Namanga Ngongi, is continuing his contacts with all the parties involved so as to obtain clarification regarding such reports.

Mr. Ngongi calls on all the parties concerned to refrain from any attack. If an attack occurred, that would only exacerbate the suffering of the Congolese people and would be a serious affront to the international community in its efforts to bring the peace process to a successful conclusion.

In any event, the Special Representative of the Secretary-General also reminds the parties concerned that they would be fully responsible if fighting resumes and if, as a result, this calls in question all the agreements concluded within the context of the peace process in the Democratic Republic of the Congo.

United Nations S/2003/137

Security Council

Distr.: General
4 February 2003
English
Original: Arabic

# Identical letters dated 31 January 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

On instructions from my Government, I wish to transmit to you herewith the daily report on the activities carried out by the inspection teams of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in Iraq on 31 January 2003.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Permanent Representative

03-23878 (E) 140203 180203

**Annex to the identical letters dated 31 January 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council**

## Activities of the IAEA and UNMOVIC inspection teams in Iraq

**Report on activities carried out on Friday, 31 January 2003**

## I. UNMOVIC inspection team (chemical)

A team of 10 inspectors left the Canal Hotel in Baghdad at 8.50 a.m. and arrived at the Agricultural Supplies Company, which belongs to the Ministry of Agriculture and is located in the Waziriyah area of Baghdad. The team made a tour of the outside of the site, then inspected the Archive Department and the Warehouse Accounts Department and enquired about the stock of agricultural pesticides in hand, the amounts sold and the amounts received. The mission lasted 1 hour and 45 minutes, after which the team returned to the Canal Hotel.

## II. UNMOVIC inspection team (missiles)

A team of four inspectors left the Canal Hotel in Baghdad at 8.30 a.m. and arrived at the 7 Nisan Company, which belongs to the Military Industrialization Corporation (MIC) and is located in the Nahrawan area, 40 kilometres east of Baghdad. The team inspected the buildings housing the machinery and equipment and requested diagrams of the electrical system for the Fath missile. The team then asked to inspect storage areas belonging to the Company and situated outside its main enclosure. Because no keys to those storage areas were available, since it was Friday, the official and religious holiday in Iraq, the inspection was postponed to a later time. The mission lasted 3 hours and 10 minutes, after which the team returned to the Canal Hotel.

## III. UNMOVIC inspection team (biological)

A team of six inspectors took off from Rashid airfield in two helicopters at 10.50 a.m., heading for the Khan Bani Sa'd area located 30 kilometres east of Baghdad, via the agricultural airfield belonging to the State Crop Protection Board of the Ministry of Agriculture. Before reaching the town of Ba'qubah, the two aircraft separated.

The first aircraft headed for the Tuwaythah region (site of the Atomic Energy Organization) and video and still photographs were taken for 20 minutes. Next the aircraft proceeded to the Salman site (disbanded technical research centre) and engaged in aerial reconnaissance and photography operations for 20 minutes. It then proceeded to a transmitting station situated in an area close to the Salman Bak district and reconnoitred it for 10 minutes. Upon the completion of the mission, which lasted 1 hour and 40 minutes, the aircraft returned to the Rashid airfield.

The second aircraft headed towards the area of Fallujah-2 and Fallujah-3, which belong to the Tariq State Company, an MIC establishment, and overflew the area for 15 minutes, photographing the Tigris River and Lake Tharthar. The aircraft returned to the Rashid airfield upon the completion of its mission, which lasted 1 hour and 55 minutes.

## IV. UNMOVIC joint inspection team

A team of 11 inspectors left the Canal Hotel in Baghdad at 9 a.m. and arrived at the Yarmuk State Company, an MIC establishment located in the Abu Ghrayb area west of Baghdad. The team met one of the site officials and asked him questions about the present name and affiliation of the Company; its activity since 1998; the types of munitions produced; the name of the general manager of the Company; whether there was any activity on that day, inasmuch as it was an official holiday; and whether there were any computers in the Company. The team then inspected the Company facilities, the equipment warehouses, the chemical warehouse, the gunpowder warehouse, the consumable materials warehouse and the firing range. The mission lasted 3 hours and 20 minutes, after which the team returned to the Canal Hotel.

United Nations S/2003/138

Security Council

Distr.: General
4 February 2003
English
Original: Arabic

## Identical letters dated 1 February 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith the daily report for 1 February 2003 on the activities of the inspection teams of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in Iraq (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Permanent Representative

03-23962 (E) 200203 200203

**Annex to the identical letters dated 1 February 2003 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council**

**Report on the activities of the IAEA and UNMOVIC inspection teams in Iraq**

**Inspection activities on 1 February 2003**

# I. IAEA inspection team

1. A first group, consisting of three inspectors, left the Canal Hotel in Baghdad at 9 a.m. for the Office of the President of Saddam University in Jadiriyah, Baghdad. The group met with the President of the University and asked about the number of students, graduate students, teaching staff and holders of Master's degrees; the number and location of the University's faculties; and its budget, funding sources and funding from Government contracts. The group also asked what equipment had been imported during the past four years and whether any of the staff of the nuclear programme petrochemical project were also on the University's staff. The group asked what kinds of research were being done by graduate students in the Colleges of Science and Engineering. It met with the Dean of the College of Engineering and the Dean of the College of Science and asked them about the number of students, graduate students, teaching staff and holders of Master's degrees and the number of departments. It also asked for the names of heads of department; whether any new equipment had been acquired during the past four years; what types of equipment and laboratories the Colleges had; whether there were any radiation sources and what they were used for; what types of new computers were in use and what their processor speed was; and what languages were used to teach students computer science. The group then inspected the laboratories of the Physics Department of the College of Science, observed the equipment located there and the types of experiment being carried out, verified the declared radiation sources and observed one of the computers in the digital image processing laboratory and the programme used. In the College of Engineering, it inspected the communications laboratory and the Computer Science Department, the Laser Department and the Mechanical Engineering Department, taking radiation readings. The mission lasted 3 hours 40 minutes, after which the group returned to the Canal Hotel.

2. A second group, consisting of three inspectors, left the Canal Hotel in Baghdad at 10 a.m. It performed radiation surveys at the following sites:

- The Arab Iraqi Company for Livestock Development, a major Ministry of Agriculture milch cow facility in 7 Nisan;
- The Al-Quds military camp for Arab volunteers in 7 Nisan;
- The Mesopotamia Seed Improvement and Production Company in Nahrawan;
- An abandoned camp currently belonging to the Faw Company;
- A physical training school of the Ministry of Defence training department;
- A private farm, which the inspectors entered with the owner's consent;

- The Nahrawan site of the Basil State Company;
- The 7 Nisan Company in Nahrawan;
- The truck maintenance department of the Petroleum Products Distribution Company; and
- The Salman Bak asphalt factory of the Jihad State Company of the Ministry of Housing and Reconstruction.

The radiation readings lasted 2 hours 35 minutes, after which the group returned to the Canal Hotel.

3. A third group, consisting of two inspectors, met with the National Monitoring Directorate to discuss the material balance for RDX and b-nitrite at the Qa'qa' and Hittin companies. The group then inspected the Dhu al-Fiqar factory of the Rashid State Company, an MIC affiliate located 20 kilometres north of Baghdad, where it examined 81-millimetre aluminium tubes. The inspection lasted 4 hours 20 minutes, after which the group returned to the Canal Hotel.

## II. UNMOVIC inspection team (biological)

1. A first group, consisting of eight inspectors, left the Canal Hotel at 8.35 a.m. for the Biotechnology Department of the College of Science of Saddam University at Jadiriyah, Baghdad. The group met with the Head of Department and asked him about the Department's activities, its funding sources, its budget cooperation with other bodies, the number of staff with degrees, the number of students in doctoral programmes, research projects, current projects in the field of molecular biology, the types of micro-organisms used in fermentation, and whether the Department had a scientific council. It then inspected all the Department's premises and verified the tagged equipment. The mission lasted 2 hours 10 minutes, after which the group returned to the Canal Hotel.

2. A second group, consisting of six inspectors, left the Canal Hotel in Baghdad at 8.45 a.m. for the Ibn al-Haytham College of Education of the University of Baghdad in Antar Square, Baghdad. The group asked the Head of the Biology Department how many members of the Department had doctorates and what their areas of specialization were, whether the Department was working in the field of genetic engineering or molecular biology, what research the Department was currently carrying out, whether teaching staff were supervising students in other locations, from which university the Head of Department had received his doctorate, how many teaching staff the Department had, and on what types of bacteria the Department was working The group inspected the Department's laboratories, verified the declarations and tags and inspected the offices of the examination board where the students' examination papers, which are completely unrelated to the inspection process, are kept. The inspection lasted 3 hours 30 minutes, after which the group returned to the Canal Hotel.

3. A third group, consisting of five inspectors, left the Canal Hotel in Baghdad at 8.45 a.m. for the Eastern Distillery Company, a private company based in Karadah, Baghdad. The group asked the Company's assistant director how many people it employed, why the facility was not in operation, how many graduates and technicians were on its staff and what type and quantities of products it produced. It

asked whether the factory produced medical or industrial alcohol, how its products were marketed, where it obtained its raw materials, whether samples were sent abroad for quality control, what processes were used to produce alcohol, what type of fermentation agent was used, how production residues and waste were handled and why filters were used. The group then inspected all the Company's premises and verified the tagged equipment. The inspection lasted 1 hour 25 minutes, after which the group returned to the Canal Hotel.

## III. UNMOVIC inspection team

1. A first group, consisting of eight inspectors, left the Canal Hotel in Baghdad at 8 a.m. for the Ma'mun factory, returning to the Rashid State Company, an MIC affiliate located 35 kilometres west of Baghdad. The group verified the tagged equipment on the mixers and the casting tanks and asked about the Fath missiles and their technical specifications. It then inspected the factory's storage areas and buildings and photographed the equipment there. The inspection lasted 4 hours 45 minutes, after which the group returned to the Canal Hotel.

2. A second group, consisting of five inspectors, left the Canal Hotel in Baghdad at 8.25 a.m. for the Rayah State Company, an MIC affiliate, in Taji, 20 kilometres north of Baghdad. The group met with the assistant director in the presence of the company's scientists and asked about the company's name, its area of specialization, its different products, the number of departments, its plan of action and the main types of research carried out since 1998. The group verified the declarations concerning the company's products, its sources of raw materials, the types of tests in progress and the buildings added since 1998. It then inspected all the company's premises, verified the plasma spraying system and the presence of tags thereon and photographed components connected to it. The inspection lasted 3 hours 37 minutes, after which the group returned to the Canal Hotel.

3. A third group, consisting of six inspectors, left the Canal Hotel in Baghdad for the Karamah site of the Karamah State Company, an MIC affiliate, in Waziriyah, Baghdad. The group met with the director of quality control in the presence of a number of scientists and asked them to explain the Sumud missile guidance and control system and to identify the factories and establishments involved in its manufacture. The group's leader requested a list of the equipment used to inspect the guidance and control system at the Al-Quds factory, which is part of the same company. It asked about three new pieces of equipment: the environmental testing system, the accelerator testing system and the gyroscopic balancing mechanism. It also asked for the technical specifications of the aforesaid equipment and where it had been obtained and manufactured. The group inspected the quality control laboratories, the storage tank department, the casings department, the spent fuel laboratories, the equipment storage areas and the warhead department. The inspection lasted 3 hours 40 minutes, after which the group returned to the Canal Hotel.

## IV. UNMOVIC inspection team (chemical)

The team, consisting of 13 inspectors, left the Canal Hotel at 8.45 a.m. for the Shahid State Company, an MIC affiliate in Amiriyat al-Fallujah, 80 kilometres west

of Baghdad. The team met the representative of the National Monitoring Directorate at the site, as well as the Company's planning officer. It requested clarifications about the Company's organizational chart and the number of employees, the number of staff holding a two-year or four-year degree in a technical field, and the Company's future plans. It then inspected one of the furnaces, the chemicals warehouse, the waste storage area, the water treatment plant, the distilled water plant, the copper plate production plant and the equipment warehouse and asked what kind of work was being done in each of these places. The team then returned to the Canal Hotel in Baghdad.

## V. UNMOVIC joint inspection team (chemical, missiles, biological)

The team, consisting of seven inspectors, took off from the Rashid airbase at 8.55 a.m. in four helicopters and landed at Siddiq airport, at the Hurriyah airbase in Kirkuk, which comes under the Ministry of Defence and is located 170 kilometres north of Baghdad. The team met with the deputy commander of the airport and asked him about the name of the site, the activities conducted there since 1998, and the types of munitions located there, whether chemical or biological munitions were tested there, whether any of the airport buildings were used by other entities, whether any other entities stored materials at the airport, whether there was a technical specialist on staff and whether there was a decontamination unit. The group then inspected the air munitions storage areas, the warehouses containing fuel tanks for MIG and Mirage aircraft, the artillery ordnance storage areas, the dry provisions storerooms and the bakery. The inspection lasted about 4 hours, after which the team returned to the Canal Hotel in Baghdad.

## VI. UNMOVIC joint inspection team in Mosul

The team, consisting of 11 inspectors, left the Nineveh Palace Hotel at 9 a.m. for the Shamaliyah State Fertilizer Company in the Bayji district. It met with the assistant director, whom it asked about any changes that had taken place since 1998, the Company's products, production plan and its sources of raw materials and sales outlets. The team then inspected all the Company's premises, asked about its staff, organizational chart and links with companies in the industrial sector, and whether it had a quality control system. The mission lasted about 4 hours 15 minutes, after which the team returned to the Nineveh Palace Hotel in Mosul.

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Security Council

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4 February 2003
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**Identical letters dated 2 February 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council**

On instructions from my Government, I have the honour to transmit to you herewith the daily report for 2 February 2003 on the activities of the inspection teams of the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) and the International Atomic Energy Agency (IAEA) in Iraq (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Aldouri**
Chargé d'affaires a.i.

03-23934 (E) 190203 190203

## Annex to the identical letters dated 2 February 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council

## Report on the activities of the IAEA and UNMOVIC inspection teams in Iraq

**Inspection activities on 2 February 2003**

### 1. IAEA inspection team

At 8.40 a.m., two aircraft carrying seven inspectors took off from Rashid airfield and flew to the National Phosphates Company Akashat mine, located 400 kilometres west of Baghdad. The inspectors met with the mine director and asked him about the ownership of the mine, the number of people it employed and their fields of specialization, its budget and funding sources and its purchases during the past four years. The group completed its visit in three hours and returned to Rashid airfield.

### 2. UNMOVIC inspection team (chemical)

A group, consisting of five inspectors, left the Canal Hotel in Baghdad at 9 a.m. and went to the Wahdah warehouses of the State Company for Irrigation and Reclamation Projects, a Military Industrial Corporation (MIC) affiliate located in Bismayah, 30 kilometres east of Baghdad. The group inspected all the warehouses, sheds and containers found on the site. It completed its mission in 1 hour and returned to the Canal Hotel.

### 3. UNMOVIC inspection team (missiles)

(a) A group of six inspectors left the Canal Hotel in Baghdad at 8.30 a.m. and went to the Qa'qa' State Company, an MIC affiliate located 50 kilometres south of Baghdad. The group inspected the Sa'd factory and asked its director about the factory's products and nominal capacity and the concentration of nitric acid manufactured. It visited the building in which nitric acid was produced, the ammonia storage building and the mechanical workshop. The group completed its mission in 2 hours and 40 minutes and returned to the Canal Hotel.

(b) A second group, consisting of four inspectors, left the Canal Hotel in Baghdad at 8 a.m. and went to the Sumud factory of the Karamah State Company, an MIC affiliate in Abou Ghurayb, a suburb of Baghdad. The group examined the factory's machinery and equipment in detail and inspected all buildings. It completed its mission in 3 hours and 15 minutes and returned to the Canal Hotel.

(c) A third group, consisting of 10 inspectors, left the Canal Hotel in Baghdad at 8.30 a.m. and went to the Milad State Company, an MIC affiliate located 30 kilometres south of Baghdad. The inspectors asked the experts about the monitoring and orientation group, inspected some of the buildings and examined the declarations. The group completed its visit in 3 hours and 15 minutes and returned to the Canal Hotel.

## 4. UNMOVIC inspection team (aerial reconnaissance)

At 10 a.m., a helicopter took off from Rashid airfield on a reconnaissance flight over some areas of the town of Ba'qubah (Diyala governorate). The aircraft flew over the site of the Qadisiyah Electrical Industries Company and took aerial photographs; it then flew over the Miqdadiyah district and took additional photographs; finally, it flew over the Abu Sayda sector. After photographing military sites, the group returned to the Miqdadiyah district. The aircraft's return coincided with the arrival in the region of the UNMOVIC joint inspection team. The group completed its reconnaissance and photography operation in about 2 hours; the aircraft then returned to Rashid airfield.

## 5. UNMOVIC inspection team (biological)

(a) A group, consisting of 11 inspectors, left the Canal Hotel in Baghdad at 8.40 a.m. and went to the Abu Ghurayb brickworks of the Ministry of Industry and Minerals in the Abu Ghurayb district, located 30 kilometres west of Baghdad. The group met with the director of the factory and asked him about the testing conducted in the Quality Control Department and the chemical experiments carried out in the laboratories. It then inspected the warehouses, the production and Quality Control Department, the cold rooms, the waste storage area and the administrative offices. The group completed its mission in about 3 hours and 30 minutes and returned to the Canal Hotel.

(b) A second group, consisting of eight inspectors, left the Canal Hotel in Baghdad at 8.45 a.m. and went to the No'man State Company, an MIC affiliate in Za'faraniyah, a suburb of Baghdad. The group met with the director of the Company; asked what its principal products were, whether the facility was currently in operation and where its field experiments were conducted; and inspected the Company's warehouses and verified their contents. It completed its mission in about 6 hours and returned to the Canal Hotel.

## 6. UNMOVIC joint inspection team

A group, consisting of 14 inspectors, left the Canal Hotel in Baghdad at 9 a.m. and went to the Al-Faylaq al-Thani fuel storage facility under the Ministry of Defence in Miqdadiyah (Diyala governorate), 150 kilometres east of Baghdad. The group inspected and photographed the fuel stocks and tanks at the site; aerial photographs were also taken from helicopters for over one and a half hours. The group took fuel samples. It completed its mission in about 4 hours and returned to the Canal Hotel.

## 7. UNMOVIC joint inspection team in Mosul

A team of 11 inspectors left the Nineveh Palace Hotel at 9 a.m. and went to Irbil University. It met with the Vice-President of the University and asked him how many faculty members had been employed four years previously and how many were employed at present; whether the College of Science included biology and chemistry departments, what the University's funding sources were and whether

there were any links between Irbil University and other Iraqi universities or universities in neighbouring countries. The group then inspected the Biology and Chemistry Departments in the College of Science. It completed its mission in 4 hours and returned to the Nineveh Palace Hotel in Mosul.